EXHIBIT 16

SUPERIOR COURT OF THE STATE OF CALIFORNIA , FOR THE COUNTY OF DEL NORTE

9 IN RE:

On Habeas Corpus.

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ARCADIO ACUNA, C-43165 12

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Case No.: HCPB06-5235

Petitioner.

REQUEST FOR INFORMAL RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS (Cal. Rule of Court 4.551(b)

Before passing on the Petition for Writ of Habeas Corpus, the Court requests that the Attorney General provide an informal response on behalf of the respondent or real party in interest.

Pursuant to California Rule of Court 4.551, the informal response shall be served on the petitioner and filed with the court. The Court hereby extends the time for the informal response to be filed to sixty (60) days from today's date to give the Attorney General adequate time to request, receive, and review the file from the Respondent. Additional extensions of time will be considered only for good cause and upon showing of due diligence.

Petitioner shall have 15 days from date of service of the informal response to file a reply with the court.

RIR-SGI

Since the Petition challenges the sufficiency of the evidence used in a gang validation, the Court will consider reviewing at the informal-response stage any confidential documents submitted under seal for an *in camera* review. Such an camera review will occur at the informal response stage only if the Attorney General submits such documents and if Petitioner does not object prior to the time allowed for filing an informal response.

If Respondent provides confidential documents under seal, the portions relating specifically to Petitioner of any lengthy documents should be pointed out to the court. In the past, the court has been provided with extremely lengthy documents, such as debriefing memoranda, when only a small portion relates to the inmate in question. This creates a time consuming task for the Court to sift through irrelevant materials and also creates a risk that the Court may overlook important information.

JAN 1 7 2007 DATED:

WILLIAM H. FOLLETT
Judge of the Superior Court

RIR-SGI

PROOF OF SERVICE BY MAIL (1013a, 2015.5 C.C.P)

I am a citizen of the United States and a resident of the County of Del Norte. I am over the age of eighteen (18) years and am not a party to the entitled action; my business address is 450 H St, Crescent City California 95531.

On Wednesday, January 17, 2007, I served a copy of the **REQUEST FOR INFORMAL RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS** (Cal. Rule of Court 4.551(b)), Filed 1/17/2007 by depositing a true copy in the United States mail in Crescent City, California, in a sealed envelope with postage prepaid, addressed as follows:

Arcadio Acuna, C-43165 C/O Pelican Bay State Prison P.O. Box 7500 Crescent City, CA 95532

William J. Barlow
Litigation Department
P.O. Box 7500
Crescent City, CA 95531
[Copy of Petition for Writ of Habeas Corpus as Filed 12/13/06 also enclosed.]

Bill Lockyer
Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550
[Copy of Petition for Writ of Habeas Corpus as Filed 12/13/06 also enclosed.]

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that it was executed at Crescent City, California this date.

DATED: January 17, 2007

Jamie McCubbin

Judicial Assistant

EXHIBIT 17



FI ED

1300 I STREET, SUITE 125 P.O. BOX 944255 MAR 2 0 2007 SACRAMENTO, CA 94244-2550

SUPERIOR COURT OF CALIFORNIA Public: (916) 445-9555 SUPERIOR COURT OF DEL NORTE Telephone: (916) 327-3893

Facsimile: (916) 324-5205 E-Mail: Jessica.Blonien@doj.ca.gov

March 16, 2007

P. J. Smith

The Honorable William H. Follett Del Norte County Superior Court 450 "H" Street, Room 182 Crescent City, CA 95531

RE: INFORMAL RESPONSE

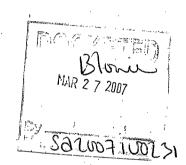
In re Arcadio Acuna (C-43165), Case No. HCPB06-5235

Dear Judge Follett:

Petitioner, Arcadio Acuna, is an inmate lawfully incarcerated at Pelican Bay State Prison. (Ex. A, Abstract of Judgment.) In his petition for writ of habeas corpus, he claims that prison officials improperly found that he was an active prison-gang associate. The Court should deny his petition because petitioner was properly found to be an active associate of the Mexican Mafia (EME).

Petitioner was validated as a member of the EME prison gang in 1990 and was housed in the Security Housing Unit (SHU). (Ex. B; Cal. Code Regs., tit. 15, § 3378, subd. (c)(4).) In 2000, petitioner was considered for inactive status because he had not been identified as having been involved in prison-gang activity for over six years. (Ex. B, Memos on Petitioner's Inactive Status; Cal. Code Regs., tit. 15, § 3378, subd. (e). Petitioner was granted inactive status and given the opportunity to live in the general population. (Ex. B at p. 2.)

An inmate categorized as an inactive prison gang member "may be removed from the general population . . . based upon one reliable source item identifying the inmate as an active gang member or associate of the prison gang with which the inmate was previously validated." (Cal. Code Regs., tit. 15, § 33378, subd. (f).) The source item relied on must be based on information developed after his release from SHU. (*Ibid.*) An inmate who may be re-validated as an active prison gang member or associate is also entitled to the same procedural protections provided in the initial validation. (Cal. Code Regs., tit. 15, § 3378, subd. (g). This means that the inmate is entitled to notice of the source items that may be used against him; an interview with the Institution Gang Investigator, or his designee; notice of the interview; documentation of the interview; a staff assistant if necessary; and notice of the evidence relied upon if validated as a prison gang member. (Cal. Code Regs., tit. 15, § 3378.)



The Honorable William H. Follett March 16, 2007 Page 2

In 2004, petitioner's inactive status was revoked. Petitioner challenged that decision in this Court, and pursuant to a negotiated agreement, petitioner's prison-gang status was again reviewed in 2006, and he was found to be an active prison gang associate. (Ex. C, Documentation of Petitioner's Interview and Due Process Rights; Ex. D, July 26, 2006 Memo Validating Petitioner as Active.) It is this determination petitioner is currently challenging.

Petitioner was provided with copies of Confidential Information Disclosure Forms and non-confidential reports to be used in his validation proceedings on June 2, 2006, and was informed that he was scheduled for an interview regarding his prison gang status on June 5, 2006. (Ex. C at 1.) It was determined that petitioner did not need a staff assistant. (*Ibid.*)

On June 5, 2006, petitioner was interviewed by two members of the Institution Gang Investigation Unit. Petitioner had prepared written statements addressing the evidence to be considered in the validation process. (Ex. C at 8-15.) During the interview, petitioner also provided oral comments which were documented so they could be considered by the Chief of the Office of Correctional Safety, or his designee. (Ex. C; Cal. Code Regs. tit. 15, § 3378, subd. (c)(6).)

After the evidence and petitioner's comments were considered, petitioner was validated as an active associate of the EME. Of the 27 items submitted to the Office of Correctional Safety for review, 19 were found to meet the validation requirements. (Ex. D; Ex. G, Confidential Information Disclosure Forms Not Used in Validation.) Of those 19, 8 revealed that petitioner participated in prison gang activity after he was released from the SHU in February 2000. (Ex. E, Confidential Information Disclosure Forms Meeting Validation Requirements and Documenting Actions After February 2000; Cal. Code Regs., tit. 15, §3378, subd. (f).) The information in the other eleven items pre-dated petitioner's inactive status. (Ex. F, Confidential Information Disclosure Forms Meeting Validation Requirements and Documenting Actions Before February 2000.)

1. An Inactive Gang Member or Associate May Be Reclassified as an Active Gang Associate Based on a Single Source.

Here, not one, but eight different items demonstrate that Acuna is an active associate of the EME. (Ex. D, E.) Acuna's contention that three items are required to find that an inactive gang associate has resumed active affiliation with a prison gang is irrelevant because over three items were used in his validation. In any event, under the regulations, only one item is necessary to reclassify a previously validated, but currently inactive gang associate as active. (Cal. Code Regs., tit. 15, § 3378, subd. (f)-(g).) Acuna attempts to stretch the requirement that an inmate be provided the same procedures during a review of inactive status as an initial validation to mean that three source items are required to remove an inmate from inactive status. (Petn. at 7-8.) This argument, however, is contrary to the unambiguous provision in the regulations that an inactive gang member may be "removed from the general population . . . based upon one reliable source item identifying the inmate as an active gang member or associate." (Cal. Code Regs. tit. 15, § 3378, subd. (f).) Because the unambiguous language of the California Regulations allow

The Honorable William H. Follett March 16, 2007 Page 3

for an inactive gang associate to be re-classified as an active associate, only one source item was required in Acuna's 2006 validation.

2. Acuna Was Properly Found to Be an Active EME Associate.

Acuna does not challenge the procedures used in his 2006 prison gang validation. Instead, he alleges that the evidence used in the validation was used in previous validations, was not reliable, and did not document verifiable acts of gang misconduct. (Petn. at 8-9.) Here, respondent only addresses the eight items that met the validation requirements and that developed after his 2000 release from SHU. (Cal. Code Regs., tit. 15, § 3378.)

First is an October 3, 2005 confidential memorandum. (Ex. C, Ex. E at 1.) This document is described as a letter from an EME member to a former inmate. In the letter, petitioner is referenced as "the hometown Arcadio" and it is indicated that petitioner may have misled another individual. (Ex. E at 1.) Because petitioner has been identified as training EME associates on how to avoid being validated as a gang member, the information that petitioner was providing instruction to gang associates demonstrated that he was actively associating with EME members. (Cal. Code Regs., tit. 15, § 3378, subd. (c)(8)(C).) Because this information came from a known EME member, "Tudy" Arthur Estrada, the reliability requirements that apply to confidential sources do not apply. (See Cal. Code Regs., tit. 15, § 3321.) This item was properly used to validate petitioner as an active EME associate.

In notes confiscated from an inmate's cell, an identified EME associate directs the recipient to "get at Cadio [petitioner] and let him know what's up with this vato and also tell Cadio to make sure Spanky and Stano have a safe trip back here." (Ex. C, Ex. E at 2.) This item was properly used to validate petitioner as an active EME associate because it shows that he was actively associating with EME members.

Petitioner's name and prison number were found in the address book of an EME member. (Ex. E at 3; Cal. Code Regs. tit. 15, § 3378, subd. (c)(8)(G).) The address book contained the names of over 130 EME members and associates. This item again showed that petitioner was associating with EME members and the reliability of the information is not at issue because it came from an identified source.

A note written by an EME associate regarding authorization to conduct EME activities discusses a need to meet with petitioner (Cario). (Ex. E at 4.) As demonstrated in exhibit W, filed under seal with the Court, the information in the note is reliable evidence of associate with the gang. (Ex. W.)

During a debriefing interview, an EME associate reported that Acuna was an inactive EME associate who continued to participate in EME gang politics. (Ex. E at 5.) The information was considered reliable because more than one source independently provided the same information, the source incriminated himself/herself in criminal activity, and because part of the information had already proven to be true. (*Ibid*; Cal. Code Regs., tit. 15, § 3321, subd. (c).)

The Honorable William H. Follett March 16, 2007 Page 4

This information was properly relied upon in finding that petitioner was an active EME associate.

An admitted EME member identified petitioner as being very active in the EME and awaiting confirmation of whether or not he had been accepted for EME membership. (Ex. E at 6; Ex. X, filed under seal.) The source also recounted that petitioner was sending money to EME members and was instructing inmates about EME. (Ex. E at 6; Ex. X.) The information was considered reliable because more than one source independently provided the same information, the source incriminated himself/herself in criminal activity, and because part of the information had already proven to be true. (Ex. E at 6; Cal. Code Regs., tit. 15, § 3321, subd. (c).)

An EME associate reported that petitioner taught an EME associate how to communicate in code. (Ex. E at 7; Ex. Y, filed under seal.) The information was considered reliable because more than one source independently provided the same information, the source incriminated himself/herself in criminal activity, and because part of the information had already proven to be true. (Ex. E at 6; Cal. Code Regs., tit. 15, § 3321, subd. (c).) This information demonstrates that petitioner was actively involved with the EME prison gang and was properly relied upon in validating him as an active prison gang associate.

Finally, in a letter, petitioner's niece indicated that she met up with an EME member at the Department of Motor Vehicles and gave the EME member petitioner's address. (Ex. E at 8; Ex. Z, filed under seal.) She also offered to pass information along from petitioner to the EME member.

These eight items, which developed after petitioner's release from SHU in 2000, were properly relied upon in validating petitioner as an active EME associate as they demonstrate that he was actively participating in the EME. (Cal. Code Regs., tit. 15, § 3378, subd. (f).)

Contrary to the allegations in his petition, the evidence of petitioner's continuing involvement with the EME is sufficient to justify his re-validation. Accordingly, his petition should be denied and this matter dismissed.

Sincerely,

JESSICA N. BLONIEN
Deputy Attorney General

State Bar No. 189137

For BILL LOCKYER Attorney General

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: In re Arcadio Acuna

No.: HCPB06-5235

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On March 16, 2007, I served the attached

INFORMAL RESPONSE

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

Arcadio Acuna C-43165 Pelican Bay State Prison P.O. Box 7500 Crescent City, CA 95532 In Pro Per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 16, 2007, at Sacramento, California.

Debra De Frantz

Declarant

Debra De Frantz

Signature

30236960.wpd

Ex. A

| ABSTRACT OF J | ILIDGMENT | - COMMI | ITMÉN | | | FORM | SL 290 |
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his form is prescribed pursuant to Penal Code §1213.5 to satisfy the requirements of Penal Code §1213 (Abstract of Judgment and Commitment) for determinate sentences under Penal Code §1170. A copy of probation report shall accompany the Department of Corrections' copy of this form pursuant to Penal Code §1203c. Acopy of the sentencing proceedings and any supplementary probation report shall be transmitted to the Department of Corrections pursuant to Penal Code §1203.01. Attachments may be used but must be incorporated by reference.

Form Adopted by the

Form Adopted by the Judicial Council of California Effective July 1, 1981

ABSTRACT OF JUDGMENT - COMMITMENT
ATTACHMENT FORM DSL 290-A

Defendant WAS charged and admitted being, or was found to have been armed with a deadly weapon at the time

of commission of the offense, or a concealed deadly weapon at the time of his arrest within the meaning of Penal Code Sections 9600 and 3024 12022.5

| | was entered as for In case No. | 259. Count No | | conviction of the above-named defe |
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| | built | Y (guilty, not guilty | y, former conviction or acquire | t once in iconardy nor suits by |
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| | with prior convict | tions charged and proved or admitted | Statute, including Section and Sub-section and | ection); |
| | DATE | COUNTY AND STATE | CRIME | DISPOSITION |
| | | SAN BERNARDINO | RobbERY (PC 211) | STATE PRISON |
| | *************************************** | SAN BERNARDINO | BURGIARY (PC 459) | 1 |
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| , | This certifies that o | on the 09th day of MARCH | | within the meaning of Penal Code |
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| ant WAS NOT undeed a habitual criminal within the meaning Sub-division And R | |
|--|------------------|
| Judged a habitual criminal within the meani. If Sub-division ACL 8 (was) or (was not) | of |
| ection 644 of the Penal Code; and the defendant AS NOT a habitual criminal in accordance with Sub-division of |) - |
| of that Section. | |
| IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the said defendant be punished by imprison ment in the State Prison of the State of California for the term provided by law, and that he be remanded to the Sheri of the County of SANTA CIAPA and by him delivered to the Director of Corrections of the State of California at the place hereinafter designated. CALIFORNIA MEdical Facility - VACAVIIIE | ff |
| It is ordered that sentences shall be served in respect to one another as follows CONSECUTIVE | · . |
| ONOTE Whether concurrent or consecutive as to each count CT. OP VIOL. P.C. SEC. 209 (b) [KIONAPPING FOR ROBBERY] DEFT. SENT. TO STATE PRISON FOR TI | ; E |
| TERM OF LIFE: FOR A VIOL P.C. SECTION 12022.5 DEFT. SENT. TO STATE PRISON FOR THE TERM O | _ |
| DD YEARS CONSECUTIVE TO LIFE TERM CT. 02. <u>CT. 03. Viol. P.C. SEC. 209 (b) (KIDNA PPING FOR ROBBERY) DEFT. SENT. TO STATE PRISON FOR THE TERM OF LIFE CONSECUTIVE TO CT. 02. FOR Q. Viol. PC. SEC. 12022(a) DEFT. SENT. TO STATE PRISON FOR THE TERM OF OLYEAR CONSECUTIVE</u> | <u> </u> |
| TO CT. OR STAYED IN THE INTEREST OF JUSTICE. CT. O4 VIOL. PC SEC. 209 (6) CKIDNADDING FL | R. |
| Robbery) DEFT. SENT. TO STATE PRISON FOR THE TERM OF LIFE CONSECUTIVE TO SEE COUNTS 2 AND 3. and in respect to any prior incomplete sentence (s) as follows: N/A | |
| (NOTE whether concurrent or consecutive as to all incomplete sentences from other jurisdictions); | •• |
| FOR Q. Viol. PG SECTION 12028 (Q) DEFT. SENT. TO STATE PLISON FOR THE TELM OF OLYEAR CONSECUTIVE TO CTS 2 AND 3, STAYED PULSUANT TO SECTION 654 PC. | - |
| PRIOR CONVICTIONS; | |
| FOR a VIOL. PC SEC. 667/1192. 7 DEFT. SENT. STATE PLISON FOR a TERM OF OS YEARS | |
| CONSECUTIVE TO COUNTS 2,3,4 (SINJE SYEAR TERM). FOR A VIOL PC SEC. 667.5(6) DEFT. SENT TO STATE PRISON FOR A TERM OF OLYEAR CONSECUTIVE TO COUNTS 2,3,4. | <u>.</u> (), |
| To the Sheriff of the | |
| Pursuant to the aforesaid judgment, this is to command you, the said Sheriff, to deliver the above-named defendant into the custody of the Director of Corrections at CALIFORNIA MEGICAL FACILITY - VACAVILLE | ic |
| at your earliest convenience. | |
| CREDIT FOR TIME SERVED: Witness my hand and seal of said court | |
| ACTUAL LOCAL TIME | |
| 504 days this 28th day of April 1987 | |
| LOCAL CONDUCT CREDITS: ESPACE K. YAMAKAWA Cler | |
| 252 days by Lalps B. Matt. CRALPH B. MLATE) Depu | k . |
| | |
| TOTAL: State of California, County of SANTA CIALA Ss. | |
| 756 days State of California, County of SANTA CIARA Ss. | y |
| State of California, 756 days County of SANTA CIARA I do hereby certify the foregoing to be a true and correct abstract of the judgment duly made and entered on the minutes of the Superior Court in the above entitled action as provided by Pen | y le |
| State of California, 756 days County of SANTA CIARA I do hereby certify the foregoing to be a true and correct abstract of the judgment duly made and entered on the minutes of the Superior Court in the above entitled action as provided by Pen Code Section 1213. | y le al |
| State of California, 756 days County of SANTA CIARA NOTE: I do hereby certify the foregoing to be a true and correct abstract of the judgment duly made and entered on the minutes of the Superior Court in the above entitled action as provided by Pen Code Section 1213. Attest my hand and seal of the said Superior Court this 28th day of April 19 87 | y le al |
| State of California, NOTE: MOTION NEW TRIAL DENIED 3/9/87 Motion to strike Prior Motion to strike Prior My Rales B. Wata Claim B. Wate Denies of the Superior Court this 28th day of April 19 87 | y le al |
| State of California, County of SANTA CIALA NOTE: Motion NEW TRIAL DENIED 3/9/87 Motion to strike Pliar Motion to strike Pliar Denied 3/9/87 Motion to strike Pliar County Clerk and Ex-orticio Clerk at the Superior Court of the State of California and tolerate of the Superior Court this 28th day of April 19 87 County Clerk and Ex-orticio Clerk at the Superior Court of the State of California and tolerate of County Clerk and Ex-orticio Clerk at the Superior Court of the State of California and tolerate of California and t | y le al |
| State of California, 756 days County of SANTA CIARA NOTE: I do hereby certify the foregoing to be a true and correct abstract of the judgment duly made and entered on the minutes of the Superior Court in the above entitled action as provided by Pen Code Section 1213. Attest my hand and seal of the said Superior Court this. 26th day of April 19 87. Motion to strike plion ERACE K. YAMAKAWA, COUNTY CIERK By Pales B. Wate Claich B: WATE County Clerk and Ex-otticio Clerk at the Superior Court of the State of California and tol. 10. DEFT. Advised | y le al |
| State of California, NOTE: Motion New Teial Motion To strike Plior County of santa Claim Motion To strike Plior County of santa Claim Motion To strike Plior Defer. Advised Appeal Rights 3/7/87 The Honorable: Tack Komak State of California, State of California, County of Santa Claim State of California, State of California Sta | y le al |
| State of California, NOTE: MOTION NEW TRIAL DENIED 3/9/87 Motion to strike Plor Detail 3/9/87 The Honorable: The Honorable: Tack Kom Al Judge of the Superior Court of the State of California, in and for the state of California and for the | y le al |
| State of California, NOTE: Motion New Teial Dented 3/9/87 Motion To strike Plior Diff. Adulsed Dented 3/9/87 Deft. Adulsed Appeal Rights 3/9/87 The Honorable: To County of Santa Clark Ss. County of Santa Clark Superior Court in the above entitled action as provided by Pen Code Section 1213. Attest my hand and seal of the said Superior Court this. 2641. day of April 19 87. Enace K. Yamarayama, county clerk By Rales B. Wata Clark By Rales B. Wata Clark County Clerk and Ex-officia Clerk of the Superior Court of the State of California in and told in the April 19 87. The Honorable: Tack Komak The Honorable: Tack Komak | y le al |
| State of California, NOTE: MOTION NEW TRIAL DENIED 3/9/87 Motion to strike prior Denied 3/1/87 DEFT. Acivised APPEAL Rights 3/7/87 The Honorable: State of California, County of SANTA CIARA County of SANTA CIARA Santa correct abstract of the judgment duly made and entered on the minutes of the Superior Court in the above entitled action as provided by Pen Code Section 1213. Attest my hand and seal of the said Superior Court this. 2541. day of Appendix of Santa Clark Example 8. What Clark B. What Clark County Clerk and Ex-officio Clerk of the Superior Court of the State of California in and for the State of California, in and for the Santa Clark Clark Appendix Clark Clark Appendix Court of the State of California, in and for the Santa Clark Clark Appendix Clark Appe | y le al |
| State of California, NOTE: MOTION NEW TRIAL DENIED 3/9/87 Motion to strike Plor Detail 3/9/87 The Honorable: The Honorable: Tack Kom Al Judge of the Superior Court of the State of California, in and for the state of California and for the | y le al |

Case 3:07-cv-05423-VRW Document 16-18. Filed 06/23/2008 Page 17 of 84

IN.

| RERIOR COURT OF | THE STATE OF | LIFORNIA - | ノン ~ - ^ |
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| AD FOR THE COUN | TY OF SANTA CL | LIFORNIA A | سنلا |
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| DATE: 28 APRIL 1987 | Courtroom |
|--|----------------------------------|
| PRESENT: HON, JUDGE | RALPH B. ULATE DEPUTY CLERK |
| NOT REPORTED , REPORTER | P. O'DONOVAN BAILIFF |
| TITLE: THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, | COUNSEL PRESENT: T. HANFORD, DDA |
| vs. ARCADIO SERRANO ACUNA, Defendant. | R. DIXON, ESQ., |

NATURE OF PROCEEDINGS:

MINUTE ORDER

THE INDETERMINATE ABSTRACT OF JUDGMENT FOR DEFENDANT ARCADIO SERRANO ACUNA DATED 09, MARCH 1987 IS ORDERED AMENDED AS FOLLOWS:

DEFENDANTS SENTENCE TO STATE PRISON FOR A VIOLATION OF PENAL CODE SECTION 12022(a) in COUNT 03 of 12 MONTHS WITH 08 MONTHS STAYED IS VACATED.

DEFENDANT SENTENCED TO STATE PRISON FOR A VIOLATION OF PENAL CODE SECTION 12022(a) IN COUNT 03 FOR THE TERM OF 12 MONTHS TO RUN CONSECUTIVE TO COUNT 02, WITH SAID 12 MONTH SENTENCE STAYED IN THE INTEREST OF JUSTICE.

CC: DEPARTMENT OF CORRECTIONS LEGAL PROCESSING UNIT P.O. BOX 942883 SACRAMENTO, CA. 94283-0001

| | | | CRIMINAL (| • |
|--------------------------------|---|------|---------------------|-----------------|
| LAW AND MOTION MINUTES | • | BOOK | ACTION NO103259 | |
| XXX MINUYE ORDER TRIAL MINUTES | | PAGE | DATE: 28 APRIL 1987 | . - |
| | • | | DITTE. | 4 |

Ex. B

ACUNA, ARCADIO, SERRANO C-43165 AKA "CADIO"

CDC 128-B (REV. 4/74)

On Monday, January 17, 2000, an investigation was initiated on inmate **ACUNA**, **C-43165**, per the California code of Regulations, section 3378 (d) (e), regarding his (Active/In-Active) gang status.

ACUNA was validated on 11-29-90, as an associate of the Mexican Mafia prison gang.

The last source document showing activity is dated, 08-31-90.

During the investigation the following areas were reviewed:

| CENTRAL FILE | 01/17/00 | I. Dominicci |
|-----------------------|----------|-------------------|
| ARCHIVES | N/A | N/A |
| LEIU/INTELL OPS | 01-28-00 | Agent D. Smith |
| CAL GANGS | 01/17/00 | Officer J. Bales |
| WSIN | 01/17/00 | Officer J. Bales |
| PAROLES, LEADS | N/A | N/A |
| LOCAL LAW ENFORCEMENT | 01/19/00 | Deputy S. Chapman |

A review of the above areas revealed no gang activity with the last six years.

A search of ACUNA'S assigned cell (D-6207L) proved negative for gang activity.

The Offender Based Information System (OBIS) indicated **ACUNA** has been in Pelican Bay State Prison since 01/19/91.

Based on the above information it is recommended ACUNA, C-43165, be placed on In-Active status.

ACUNA was photographed, and an **In-Active** package is being submitted to the Law Enforcement & Investigations Unit for approval.

I. Dominicci.

I.S.U. Gang Investigator In-Active Gang Task Force

Pelican Bay State Prison

DATE: 01/31/2000

GANG INFORMATION/IGI REVIEW / IN-ACTIVE STATUS

CDC 128-B

Copy - Institutional Gang Investigator/Region Gang Coordinator

Copy - Law Enforcement Liaison Unit

Copy - Inmate/Parolee

TAIN, INVESTIGAT

Ex. C

NAME and NUMBER

ACUNA, ARCADIO

C-43165

D06---

CDC 128-B (Rev. 4/74)

On May 26, 2006, I initiated the review of the Central Files of validated Mexican Mafia (EME) member "Cadio" Arcadio Acuna C-43165 (DOB: 10/26/1951) of Cucamonga. This review was based upon an understanding between the Attorney General's Office and Acuna's attorney, Mr. George Mavris, that there were possible due process errors (relating to confidential disclosure) associated with the revalidation of Acuna Purthermore, the Judge has requested clarification regarding the validated status of Acuna, whether he should be validated as an EME member or as an EME associate. The Institutional Gang Investigations unit at Pelican Bay State Prison agreed to review the Central Files of Acuna to determine the appropriate status, and afford him an opportunity to address each item that may be considered for validation.

On June 2, 2006, Acuna was provided with copies of the CDC Forms 1030 disclosing each of the confidential memorandums listed in this report. He was also provided with a copy of the nonconfidential reports. Acuna was advised that he is scheduled for an interview on June 5, 2006, and informed of the purpose for the interview. There was no need to assign a Staff Assistant, as Acuna has a 12.9 grade point level, is fluent in English, and is not included in the Mental Health Services Delivery System.

On June 5, 2006, Sergeant D. Barneburg and I, as representatives of the Institution Gang Investigation Unit, interviewed Acuna regarding the following bulleted information sources. Acuna provided two handwritten response memorandums (attached, identified as Response A and Response B). Additional comments are noted with the reference to the source items listed below and on succeeding pages.

Confidential Memorandum dated October 3, 2005 (Communication). This documents a letter from EME member "Tudy" Arthur Estrada V26050 of Cucamonga to "Spooky" Velia Mendoza W15593 (discharged) at 21957 Woodward Street; Perris, CA, 92507. Acuna is referenced as "the hometown Arcadio", and Estrada wrote that Acuna may have misled another individual a little. This does not appear to be a concern to Estrada, for he said after this "So really I'm not tripping." Staff information appear to be a concern to Estrada, for he said after this "So really I'm not tripping." Staff information identified the misled individual as "Dean" Salvador Mendoza 184814 of Casa Blanca Acuna was identified as training EME associates how to avoid becoming validated.

Acuna provided a handwritten response to this item (See item #1 on Response A). During the interview, Acuna reported that he has known Estrada and his family since Estrada was about three years old. Acuna claimed he has never corresponded with Estrada.

◆ Confidential Memorandum dated October 12, 2004 (communication). Notes were confiscated from Brent Ebert H78330 of Shermans at Calipatria State Prison. In one note, the author (identified as EME associate "Danny Boy" Daniel Sandigo K07935 of Upland) directs the recipient, "Anyway get at Cadio and let him know what's up with this vato and also tell Cadio to make sure that Spanky and Straño have a safe trip back here." "Spanky" has been identified as Henry Duenas P05117.

Acuna provided a handwritten response to this item (See item #2 on Response A). During the interview, Acuna stated he does not know Sandigo.

Confidential CDC Form 128B dated August 10, 2004 (association). Acuna's name was in the address book
of EME member "Turtle" Mark Quiroz C50887 of Colton. The book contained the names of over 130
EME members and associates. Both Acuna's name and CDC# were entered.

Acuna provided a handwritten response to this item (See item #4 on Response A). During the interview, Acuna stated he knows Quiroz from the SHU, but has not corresponded with him.

(continued on page 2)

(Page 2, continued from page 1)

Confidential Memorandum dated March 29, 2004 (debrief). A Northern Structure member reported that Acuna was assaulted at PBSP B Facility in 1990 by "Oso" Gerald Winston D51285, because Acuna was an EME associate and had directed assaults against Northern Hispanic inmates at PBSP Facility A (See source item dated July 30, 1990).

Acuna provided a handwritten response to this item (See item #3 on Response A). During the interview, Acuna stated he was not involved in ordering assaults on Northern Hispanic inmates. He also claimed that Winston had just arrived at PBSP B Facility, and attacked him in the Dining Room because he (Acuna) was the person seated at the table nearest the entry to the Dining Room. Acuna believed he was a target of opportunity and not the victim of a specific plan.

◆ Confidential Memorandum dated December 12, 2003 (communication). A note was discovered December 4, 2003 in the cell of "Duke" Victor Miranda K59950 of Pico Viejo. The note was sent to Miranda from "Nene" Hugo Hernandez H05442 of San Fer − Jokers. Hernandez wrote "Beto and Cario are close friends and they work in Auto Body. What I meant to say is take Conejo's yaves and I did. I got the friends and they work in Auto Body. What I meant to say is take Conejo's yaves and I did. I got the yaves from Conejo. I can prove it. So I think Beto must have told Cario I told Ciego that I was gonna take the yaves, but it was never Toto's. It was Terco's...If I can get granted to put Ciego, Beto, Cario, Conejo and myself all together the truth will come out. It will show that yes Beto was under the wrong Conejo and he ran with it." Gilbert Lopez K86894 is "Beto" of San Diego Armando Molinar impression and he ran with it." Gilbert Lopez C06986 is "Tot" of Santa Paula. Victor Acuna D33299 D53455 is "Conejo" of Evergreen. Robert Lopez C06986 is "Tot" of Santa Paula. Victor Acuna D33299 is "Terco" of Bassett Grande. The term "yaves" is "llaves," and refers to authorization to conduct EME gang activities on behalf of the EME. [Note: This information does not support Acuna is an EME member, but it was accepted as a source for validation. At best, it indicates EME associate].

Acuna provided a handwritten response to this item (See item #3 on Response B). During the interview, Acuna stated the source simply assumes "Beto" told something to Acuna, and felt Acuna could contribute to verifying it. Acuna denied involvement or knowledge of any of this.

♦ Confidential Memorandum dated November 18, 2003 (debrief). An EME associate participated in the debriefing process. He reported that Acuna is an inactive EME associate who continues to participate in EME gang politics.

Acuna provided a handwritten response to this item (See item #5 on Response A).

Confidential Memorandum dated September 23, 2003 (informant). A self-admitted associate of the EME reported that "Cadio" Acuna was released from PBSP-SHU after getting his status changed to inactive. The source said Acuna is very active, and was awaiting confirmation of EME membership. There were doubts about the granting of EME membership due to Acuna's age and the fact he had not killed anyone for the gang. While at CCI, Acuna was taking care of four or five EME members at PBSP-SHU. Acuna was sending money to EME members "Terco" Acuna, "Sleepy" Huerta C80766 of Wilmas, "Chino" was sending money to EME members "Terco" Acuna, and "Popeye." Acuna was reportedly instructing the inmates Delgadillo D16318 of Geraghty Loma, and "Popeye." Acuna was reportedly instructing the inmates about the EME. Acuna reportedly targeted "Squid" Mark Galvan H91736 of Arlanza for assault. The targeting of Galvan for assault was questioned by another person operating for the EME. Acuna's name was on a list of persons the EME was protecting. Acuna and the other six individuals with this protection became known as the "Magnificent Seven." The note endorsing this action was signed by ten EME members from PBSP. [Note: This information does not support Acuna is an EME member, but it was accepted as a source for validation. At best, it indicates EME associate].

(continued on page 3)

(Page 3, continued from page 2)

Acuna provided a handwritten response to this item (See item #2 on Response B). During the interview, Acuna denied involvement in any of this activity. Furthermore, he stated that he would have been issued a rule violation report, and absence of it supports that he was not involved in it. He said there is no evidence of him sending money to EME members.

Confidential Memorandum dated June 17, 2003 (debrief). This is a debriefing interview with an EME member, who identified Acuna as an EME associate he knew as "Cadio" of Cucamonga. Acuna is referenced on a list as an EME associate. No specific gang activity is identified

Acuna provided a handwritten response to this item (See item #6 on Response A).

♦ Confidential Memorandum dated August 8, 2002 (informant). An EME associate reported that "Cadio" Acuna taught EME associate "Corky" Manuel Flores K32962 how to communicate in code. Acuna used this code in his correspondence with "Popeye" at PBSP. Acuna used "Dean" Salvador Mendoza to assist in redirecting his letters to avoid staff detection that could result in Acuna's return to active status.

Acuna provided a handwritten response to this item (See item #7 on Response A).

Confidential Memorandum dated March 5, 2002 (debrief). A validated EME associate reported that Acuna and "Jo Jo" (identified as EME associate Anthony Sisneros D68626) of Trece Locos were directing the gang activities in PBSP ASU in 1990. Acuna was identified as providing weapons to other EME associates. The source identified Acuna as an EME associate known as "Cadio" of Cucamonga.

Acuna provided a handwritten response to this item (See item #8 on Response A).

◆ Confidential Memorandum dated December 12, 2001 (informant). This reports an interview with an inmate who stated a conflict occurred between Marshal Smith P07620 and Acuna at CCI IV-A Law Library on December 4, 2001. When Acuna warned Smith he could receive a rule violation report if he goes behind the counter, Smith began calling Acuna a "rat" and a "snitch." According to the informant, this resulted in Smith having safety concerns from Acuna on the yard.

Acuna provided a handwritten response to this item (See item #9 on Response A). During the interview, Acuna said that Smith was a "ding" and did this in front of many people. He denies targeting Smith or giving any attention to the behavior.

♦ Confidential CDC Form 128B dated September 21, 2000 (communication). In a letter, Josie Acuna informed Arcadio Acuna that she encountered EME member "Tudy" Estrada at the Department of Motor Vehicles. She informed Acuna that she gave Estrada Acuna's address, and Estrada said he would soon be corresponding with him. Josie Acuna also stated that if there is anything important to pass along to Estrada, he simply needs to send her the letter and she will deliver it to Estrada.

Acuna provided a handwritten response to this item (See item #1 on Response B). During the interview, Acuna stated that "Josie" is his niece. He added that he has known Estrada's family for many years, but he has not corresponded with him.

(continued on page 4)

(Page 4, continued from page 3)

Confidential Memorandum dated January 5, 2000 (debrief). This is a debriefing interview with an EME associate, who identified Acuna as an EME associate he knew as "Arcadio" of Cucarnonga. Acuna is referenced on a list as an EME associate. No specific gang activity is identified.

Acuna provided a handwritten response to this item (See item #10 on Response A).

Confidential Memorandum dated March 14, 1997 (debrief). This is a debriefing interview with an EME associate, who identified Acuna as an EME associate he knew as "Cadio" of Cucamonga. Acuna is referenced on a list as an EME associate. No specific gang activity is identified.

Acuna provided a handwritten response to this item (See item #11 on Response A).

Confidential CDC 128B dated November 7, 1996 (debrief). This is a debriefing interview with an EME associate. The source reported that in 1990, Acuna was directing gang activities on behalf of the EME at PBSP Administrative Segregation. The source added that Acuna's cellmate was Manuel Aguirre C90519. The source identified Acuna as an EME associate known as "Cadio."

Acuna provided a handwritten response to this item (See item #12 on Response A).

- ◆ CDC Form 128A dated May 3, 1996 (offense). Acuna was observed by staff passing a folded paper to EME member "Wino" Thomas Grajeda C90753 (now V22200) in the PBSP SHU Law Library where communication between inmates is prohibited. A subsequent search of both immates did not yield discovery of the paper. Based on the event, Acuna was restricted from physical access to the Law Library for 45 days.
 - Acuna did not address this item in his handwritten responses. During the interview, he stated that he did not pass a note. He said Grajeda asked him for a pen filler. He said he wrapped it in a paper for weight and slid it to him. He said this was not related to gang activity or behavior.
- ♦ Confidential Memorandum dated February 10, 1995 (debrief). This is a debriefing interview with an EME associate. The source identified Acuna as an EME associate known as "Cadio" of Cucamonga. He stated Acuna was assaulted in the B4 Dining Room in 1990 by a gang rival, a Northern Hispanic (identified in the report as NS member "Oso" Gerald Winston D51285: see source item dated July 30, 1990).

Acuna provided a handwritten response to this item (See item #13 on Response A).

◆ Confidential Memorandum dated January 31, 1994 (communication). This documents the misuse of legal assistance between immates for the purpose of EME member "Tupi" Ruben Hernandez C-04672 to pass along a coded message on January 26, 1994, to Acuna. In the message, Hernandez made reference to "Estrada v. Cucamonga 94 Daily Journal 237. Tudy made out alright. 7 years." Hernandez referenced a volume of the Daily Journal that did not exist in order to pass along information to Acuna about EME member "Tudy" Arthur Estrada C63175 (now V26050) of Cucamonga.

Acuna provided a handwritten response to this item (See item #14 on Response A).

(continued on page 5)

(Page 5, continued from page 4)

Confidential Memorandum dated May 13, 1993 (informant). This documents an interview with an EME associate. The source identified Acuna as "Cadio" of Cucamonga, and reported that Acuna was recently (1993) granted EME membership. The source also reported that Acuna's crime partner was "Huero" Marco Ramirez C55431 of Ontario, who was assaulted at PBSP B Facility by EME associates for becoming a "Christian."

Acuna provided a handwritten response to this item (See item #15 on Response A). During the interview, Acuna claims he did not know Ramirez was assaulted. [Investigative Note: Page 3 of Santa Clara County Probation Officer Report dated March 9, 1987 in Central File of Acuna reflects that Marco Anthony Ramirez, Jr. was Acuna's crime partner].

◆ Confidential Memorandum dated February 1, 1993 (debrief). This documents a debriefing interview with an EME associate. The source reported that Acuna was one of the EME's representatives in PBSP B Facility, and was slashed across the face by a Northern Hispanic inmate when he was eating in the dining room (See source item dated July 30, 1990). After Acuna arrived at PBSP Administrative Segregation Unit, he wrote to EME associate "Gusi" Gustavo Flores C62331 of Rivas and directed an assault on "Wolfie" Louis Robles D11016 of Casa Blanca because Robles failed to warn or assist Acuna when he was assaulted in the Dining Room. Instead, Robles was cleared of any wrongdoing by other EME associates. The source identified Acuna as "Cadio" of Cucamonga.

Acuna provided a handwritten response to this item (See item #16 on Response A). During the interview, Acuna denied targeting Robles, and added that Robles was his cellmate.

Confidential Memorandum dated October 29, 1992 (communication). In a letter from EME associate "Little Spider" Roy Gavaldon C15377 to his brother, EME member "Big Spider" David Gavaldon C15376, the younger Gavaldon informs his brother that Acuna received a letter from a lawyer who has an office in younger Gavaldon informs his brother that Acuna received a letter from a lawyer who has an office in younger Gavaldon informs his brother that Acuna received a letter from a lawyer who has an office in younger Gavaldon informs his brother that Acuna received a letter from a lawyer who has an office in younger Gavaldon informs his brother that Acuna received a letter from a lawyer who has an office in younger Gavaldon informs his brother that Acuna received a letter from a lawyer who has an office in younger Gavaldon informs his brother that Acuna received a letter from a lawyer who has an office in younger Gavaldon informs his brother that Acuna received a letter from a lawyer who has an office in younger Gavaldon close in formation in Spanish translated, stated the following "With all my respect, I send you greetings. Hope to see you again soon. Your pal, cadio." The letter accompanying the card contained coded information (numbers written in Nahuatl), references to several EME members, names of people who were just granted EME membership, and other EME gang-related messages. Based on this, the correspondence is considered to be EME gang-related communication.

Acuna provided a handwritten response to this item (See item #17 on Response A).

Confidential Memorandum dated May 2, 1991 (debrief). This is a debriefing interview with an EME associate, who identified Acuna as an EME associate he knew as "Cadio" of Cucamonga. Acuna is referenced on a list as an EME associate. No specific gang activity is identified.

Acuna provided a handwritten response to this item (See item #18 on Response A).

♦ Confidential Memorandum dated August 31, 1990 (interview). This is an interview with an EME associate, who identified Acuna as an active EME associate. Acuna is referenced on a list as an EME associate. No specific gang activity is identified.

Acuna provided a handwritten response to this item (See items #19 and #20 on Response A).

(continued on page 6)

(Page 6, continued from page 5)

◆ CDC Form 115 dated July 30, 1990, Log# B-90-07-146 (offense). Acuna was involved in an altercation with gang rival, NS member "Oso" Gerald Winston D51285. Acuna was slashed across the face and neck by Winston, and retaliated by kicking him. The two immates continued to fight on the floor until responding staff arrived. Acuna pled guilty and was assessed 90 days loss of credit.

Acuna did not address this item in his handwritten responses. Additional or corroborative information is contained in other source items].

Confidential Memorandum dated April 9, 1990 (interview). This is an interview with an EME associate,
who identified Acuna as an EME associate he knew as "Cadio" of Cucamonga. Acuna is referenced on a
list as an EME associate. No specific gang activity is identified.

Acuna provided a handwritten response to this item (See item #21 on Response A).

♦ Confidential Memorandum dated September 20, 1989 (debrief). This is a debriefing interview with an EME associate, who identified Acuna as an EME associate he knew as "Carrio." The source stated that Acuna may have been involved in the riot that took place at California State Prison Sacramento County on May 25, 1989 (referring to the EME gang-related assault on Black inmates).

Acuna provided a handwritten response to this item (See items #22 and #23 on Response A). During the interview, Acuna reported that he was initially charged with participating in the riot, but he was found not guilty. Acuna's Central File does not contain a rule violation report to indicate his involvement in the incident.

♦ Confidential Memorandum dated October 11, 1988 (debrief). This is a debriefing interview with an EME associate, who identified Acuna as an EME associate he knew as "Gladio." Acuna is referenced on a list as an EME associate. No specific gang activity is identified

Acuna provided a handwritten response to this item (See item #24 on Response A).

Following the interview, Acuna was reviewed for tattoos to see if any reflected EME gang affiliation. Acuna has a scar on his left shoulder from a rotator cup surgery. No tattoos were observed that were specific to EME gang affiliation. The following are the tattoos that were noted and photographed:

- ♦ Stomach: Cucamonga
- ♦ Neck (Right side): "Eliana" covering "Tonia"
- Left Forearm; butterfly, roses, "Andrea"
- Right Forearm: coiled snake, "Cuca"

- Back: two bare-breasted women, one wearing a sombrero
- ♦ Left Leg: bare-breasted female, cross
- Right Leg: faded dragon; two roses above knee
- ♦ Left Ankle: "Viva mi raza"

The documentation does not appear to support EME membership, but association is reflected.

D. T. Hawkes

Correctional Counselor II

Institution Gang Investigations Unit

Pelican Bay State Prison

DATE: June 5, 2006

GENERAL CHRONO

RESPONSE A

To. D. T. Hawkes

PBSP-SHU

Correctional Counselor II

From: A. Acnia # c. 13165

PBSP-544 | FD 6-113

Date ! June 05, 2006

Re: Superior Court Case # HCPB-05-5242

Notwithstanding the fact that only the (3) CDC-128 B Confidential memo's dated 9/21/00, 4/23/03 and 12/12/03, were relied on in the Validation which is the basis for the above cetal count action, and the other (24) CDC-128B confidential memo's disclosed on 4/82/06 are not relevant to the validation process at issue under provisions set forth in the Code of Regulations, I will briefly address each item as Collowis.

- (1) CPC-128 B Countdestral memo duted 10/3/05 Alleges a letter was written to the mother of one I my ex-cell mates by Arthur Estrada, but does not identify any gang activity on my part, and does not show I have ever communicated with Estrada.
- (2) CDC-128B Confidential Memo dated 10/12/04- Discloses that a note confiscated from a prisoner at california state Prison mentions me by name but does not provide information defecting gang activity on my part.
- (3) CDC-1288 Costidential Memo duted 3/29/04 Jimply reports
 information taken from a RVR written in 1990 where I was
 Count quilty of an assault. The informat Galsely claims
 I had directed assaults against Northern Hisganic inmates
 at PBSP during some unspecified time, when we such contact

has ever beed doennested (4) COC-128 B. Confidential Manie dated B/10/ed- States my Name and humber bound in water principles phone book. No lisk to garge partivity, in evidence that I ever warmen cuted with this person. 15) 1000.1288 Confidential Memo dated 11/18/103 - Self-securing debut hog istatement alleging unverified, and now-specific and of miscondict. (1) CDC-128B Confidential Memo dated 14/17/03- Alleger gang 0250612 hois with no specific reference to verifiable acts. (2)1001-1286 Confidential meno dutid 8/18/02- Alleges Strough hearsay that I was ustructing presoners we how to communicate is code of going activity (B): CDC-128 B confidential Mana dated 3/5/02- Informant claims I juas directing gang activities and producting weapons to other (4) CDC-178 B Counderted Mana deted 12/12/01 - Alleger a conflict

arase behaved myself and another prisoner which resulted in

this individual having safety converus. No allegations of jung facturaly sierc mude. (10) CPC-128 B Confidential Memo dated 1/5/00. Dutdated information

(10) CPC-128 B Confidential Memo dated 3/14/17- No specific gang

activity elleged

(17) CPC-128 B Confidential Memo dated 11/7/91. No specific gang factivity is alleged... Memo dated 2/10/99 - Simply makes reference 117) CDC-128 1 cook destrol hound guilty of mutual worshot, to RUR where I was Memo dated ilistry - Viscloses that a note (14) CDC-128B Confidential

was intercepted via legal correspondence, but does not reveal gang activity on my part.

(15) CDC-128 B Constituted Memo dated 5/13/93- Informant claims

Knowledge of my being accepted into membership and references

an alleged assault on my crime partner that I was never

anare of No direct evidence of mis conclused is previded.

[16] CDC-128 to Confidential memo dated 211/93- A debriefer claims

I wrote to another proponer seeking to have an individual
assaulted. No direct evidence provided to show any such
communication ever book place.

(17) CDC-128 B Controlestrail memo dated 10/29/92 - Documents a birthday card that was sent from one presoner to his brother

Ne gang activity worted.

(18) CDC-128 B Coolidatal memo dated 3/2/11 - Debrieher claims agrocuation but others no direct link to specific acts.

(19) CDC-128 & Confidential memo dated 8/31/20 - Velriele-claims association will no ividence of misconduct.

(20) CDC-128 B ashdertial meno dated 2/31/40 No specific gary activity alleged.

(21) CDC-128 B Coolide which memo dated 4/1/90. Debrieting slatement

containing no restrible acts of young activity.

(22) CDC-128 B Confidential memo duted 9/20/89- Intermant claimed

I was involved in racial disturbance of New Fulson when

I was specifically bound not guilty of such misconduct.

177) CDC-128B Confidential Memo dated 4/20/34- Debutching statement

makes no relievce la specific gang activity.

(24) CDC-128 B Coundantiel memo duted 10/11/080- Informant ulleges
assicilation without evidence of specific acts

Finally, because all of the above used documents did

protest at issue here they are wholly wrelevant and are would trelevant and are would wrelevant and are would wrelevant and are would trelevant and are would trelevant and the course of the 20+ yes, of my current is career than. Many act, of serious misconduct are alleged, yet a retend of my prison file them? I have never here therefore or found appelly via a CDC-115 RVR of conduct which shows I have peen as deeply involved in gang activity as preson officials teem to be trying to conside the court I have been. Again, I vehenevely declare I am not now nor have I ever been a member of a prison gang, and assent that the only reason I was validated as a member if because I relieved to become an information.

111 Acado Grava A. Acada & C-43165

RESPONSE B

To: D.T. Hawkes

IPBSP-SHU

Korrectional Counselor I

From: A. Acura # C-43165

: PBSP- SHU | FD6-113

Date of 2006

Re: Superior Court Case # HCPB - 05-5242

on relation of I received written Notice that I would be interviewed by the IGI on 4/5/06 per an agreement entered into perturen the Attorney General's office and the afterney representing the is the above referenced court action where I challenged my validation as a member of a prison gang and the indeterminate term of segregation imposed as a result of that validation. A total of (27) CDC-1030 Constraint Information Disclosure Forms were introvided, some of them duting back almost 20 yrs. , but only (3) al these were actually relied on in the validation process; and jit was the first time ever the information constanced there i was revealed to me. Mecause the purpose of the borthcoming interviole is to determine whether I was provided with the due process required by law in the violation and examine the source items to see it they support my validation as a member of a prison gang, each of these documents is addressed as Collows.

(1) CDC-128 A Confidential Memo dated 4/21/00- The New 1080 Form discloses that I received a letter from my NIECE, Just Achna, while I was not CCI where she wrote she had seen Arthur Estrada and gave him may address.

The form does not allege that I ever communicated with Estruct through my viece in any way there or form, cither deroctly or indirectly. It does not show I actively promoted furthered or abetted any verified gaving activity, and containly does not by any. Means establish I have been accepted into membership by the criteria rel forth in the Code of Regulations. At most, it indicates I know Estructually because we are from the same neighborhood and I grew up with his mom and Dad and we were cell mates here at PBSP-SHU in the mid-1990's. But more importantly, it cannot be disputed the documented information was not disclosed to me in accordance with as lablished criteria grior to what the validation package was submitted to the LEIU in Sacramento.

(2) COC-128 B confidential memo dated 4/23/103- The new 1030 form I received on 6/02/04 futs both numerous allegations of gang activity, documenting that I was reportedly instructing innetes about gaing activity; that I was sending money to various individuals, that I targeted a prisoner for assault, and a note endorsing my actions was signed by ten velidated gang members from PBSP. All of this information is patently balse and unvertibed, the so-called note never existed, and because the charges of miscomplect are so serious, if count be argued that it prison officials had actually accepted the information as true they would have been obligated by provisions in the Code of Regulations to issue a RVR, and at the very least should have placed me in Adding and Jakes preventive measures to insure the sulety of the individual the informant

claimed I was largeting for assault. Obviously, the debricker who provided this false information could not have had first. I had Knowledge of something that never occurred and was lable to make these wild accusations because he know I had arrived from PBSP SHU and was simply assisting himself is the debriefing process knowing the IGI would accept the information as true once the debriefer inflicated himself in garma activity. Also, a review of the downments shows the information was not properly disclosed before the validations package was submitted to the LEW.

(3) CDC-128 & Costidential Memo duted 1212/103 - This new and expanded disclosure form documents that a note was recovered from a prisoner's call where another prisoner speculates I may have been provided with information dealing with prisons politics by yet another prisoner, but does not alloge any factoristy on my part. I was never aware of the street on described in the note autil now, and is any case the source Hem does not establish that I had been accepted into membership of a gang, does not in any way shape or form indicate I was specifically acting the harther, aid or abot criminal gang activity, and was not disclosed before the validation package was submitted to the LEIU.

But more importantly, taken individually or collectively, the source items do not establish I have been accepted into factual membership in accordance with the criteria set booth in the code of Regulations. A review of the record shows that the source items were not disclosed according to mandathet the source items were not disclosed according to mandathet in procedures and do not contain evidence of verified

gawg activity.

Fourtherwore, great emphasis must be put on the fact that

Fourtherwore, great emphasis must be put on the fact that

Tremained in the goneral population of various prisons for

almost dyrs, after I was growted in active startus in 2000

and that not once during that time period was I issued

a cDC-115 RVR for the serious gang misconduct alleged

in the source items. Instead documentation in my

prison file shows I performed all of my assigned duties

prison file shows I performed all of my assigned duties

diligently, that I received commendatory work reports from

all of my supervisors and was regularly remarded with

classification score reductions for good conduct:

Finally I am stating for the record that this is the first time ever the information winterwed in the 3-source than used in the validation process has been disclosed do items used in the validation process has been disclosed do item, I wiscret that all of the allegations of gang activity me, I wiscret that all of the allegations of gang activity we remaind thereis are fulse. I submit the only reason to was validated was because I refused to be wore an informat, and under possibly of perjury declare I am informat, and under possibly of perjury declare I am not now, nor have I ever been a member of a gang.

131 Cercadio - Claima (-)., -) cuna de c. 43165 Case 3:07-cv-05423-VRW

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Ex. D

STATE OF CALIFORNIA. CDC 128-11-2 (5/95)

| INMATE'S NAME: | Arcedio | ACUNA |
|----------------|---------|-------|

CDC NUMBER: C43165

On October 5, 1995, a CDC 128B2 regarding subject was issued identifying subject as an Active EME associate based upon a gang validation package submitted by Institution Gang Investigator Bell at FOL. A subsequent CDC 128B2 dated February 7, 2000, was issued identifying subject as Inactive. On January 12, 2004, an Active/Inactive Review was completed by Institutional Gang Investigator Garcilazo at LAC, which resulted in a CDC 128B2 dated January 20, 2004, identifying subject as an active EME member. In an agreement with the Del Norte County Superior Court, the validation of subject and his current status were to be reviewed. The following documents were submitted to UPDATE and CHANGE subject's validation status:

TOTAL NUMBER OF ITEMS SUBMITTED FOR REVIEW: (27)

Item (1) Confidential Momorandum dated 10/3/05 (Communications)

Item (2) Confidential Memorandum dated 10/12/04 (Communications)

Item (3) Confidential CDC 128B dated 8/10/04 (Association)

Item (4) CDC 115 dated 7/30/90 (Offenses) supported by Confidential Memorandum dated 3/29/04 (Debrief). Confidential Memorandum dated 2/10/95 (Debrief), and

Confidential Memorandum dated 2/1/93 (Debrief)

Item (5) Confidential Memorandum dated 12/12/03 (Communications) (Accepted 1/20/04)

frem (6) Confidential Memorandum deted 11/18/03 (Debries)

- Item (7) Confidential Memorandum dated 9/23/03 (Informant) (Accepted 1/20/04)

-Item (8) Confidential Memorandum dated 8/8/02 (Informent)

Item (9) Confidential Memorandum dated 3/5/02 (Debrief) -Item (10) Confidential CDC 128B dated 9/21/00 (Communications) (Accepted 1/20/04)

Item (11) Confidential Memorandum dated 1/31/94 (Communications)

Item (12) Confidential Memorandum dated 5/13/93 (Informant)

Item (13) Confidential Memorandum dated 10/29/92 (Communications)

Item (14) Confidential Memorandum dated 8/31/90 (Debrief) (Accepted 10/5/95).

Item (15) Confidential Memorandum dated 9/20/89 (Debrief) (Accepted 10/5/95)

Item (16) Confidential Memorandum dated 10/11/88 (Informant) (Accepted 10/5/95)

TOTAL NUMBER OF ITEMS WHICH MEET VALIDATION REQUIREMENTS: (19)

The following items do not meet the validation requirements and were/shall not be used as a basis for validation:

Item (1) Confidential Memorandum dated 6/17/03 (Debrief) (No EME activity noted)

Item (2) Confidential Mamorandum dated 12/12/01 (Informant) (No EME activity noted)

Item (3) Confidential Momorandum dated 1/5/00 (Debrief) (No EME activity noted) Item (4) Confidential Momorandum dated 3/14/97 (Debrief) (No EME activity noted)

Item (5) Confidential Memorandum dated 11/7/96 (Debrief) (No EME activity noted)

Item (6) CDC 128B dated 5/3/96 (Offenses) (No EME activity noted)

Item (7) Confidential Memorandum dated 5/2/91 (Debrief) (No EME activity noted)

Item (8) Confidential Memorandum dated 4/9/90 (Informant) (No BME activity noted)

TOTAL NUMBER OF ITEMS WHICH DO NOT MEET VALIDATION REQUIREMENTS: (8)

ACTION OF REVIEWER

Pursuant to the validation requirements established in 15 CCR Socion 3378, Arcadio ACUNA is:

∨ALIDATED

REJECTED

OCT - 3 2011

ACTIVE/INACTIVE REVIEW

as an "Active" associate of the Mexican Matta prison gang.

ELIGIBILITY DATE

Case 3:07-cv-05423-VRW Filed 06/23/2008 Document 16-18 Page 38 of 84 CDC 128B2 Arcadio ACUNA C43165 Page 2 SIGNATURE SIGNATURE

Printed name

MEMBER HURANS

Printed name

GANG VALIDATION/REJECTION REVIEW GENERAL CHRONO LEIU/SSU

DISTRIBUTION:

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Case 3:07-cv-05423-VRW

Document 16-18 Filed 06/23/2008 Page 39 of 84

Ex. E

DE TMENT OF CORRECTIONS

| INMATE NUMBER | C43165 | INMATE NAME: ACUNA, ARC | ADIO |
|---|--|---|---|
| Use of Confider | | | |
| • | | source(s) has been considered in the: | |
| | • | | submitted by |
| a) CDG-11 | 5. Disciplinary Report dated | | |
| · | | STAFF NAME, TITLE | |
| b) CDC-11 | 4-D, Order and Hearing for | Placement in Segregated Housing dated | · |
| 2) Reliability of So | urce. | | • |
| The identity of | the source(s) cannot be disclo | osed without endangering the source(s) or th | e security of the institution. |
| I his information | on is considered reliable bed | confidential information which has prover | n to be true. |
| a) This soi | Ince has previously provided | essfully completed a Polygraph examinat | ion. |
| | | y provided the same information. | * |
| c) ☐ More th | an one source independent | rself in a criminal activity at the time of pro | viding the information. |
| d) This soi | arce incriminated ministrate | the source(s) has already proven to be true | e. |
| , | | the source(s) has already proven to be true | |
| f) 🛛 Other (f | | 2 Arthur Betrada V26050 | |
| Lette 3) Disclosure of in | from EME member "Tudy formation received. | Attimi Estrada v 20050 | |
| C/ D/G/000412 21 111 | , | | • |
| Mendoza W1559 as "the hometow does not appear information ident | 3 (discharged) [at 21957 n Arcadio." Estrada wrote to be a concern to Estrada ified the misled individual | ur Estrada V26050 of Cucamonga to Woodward Street; Perris, CA, 9250 e that Acuna may have misled anothe da, for he said after this "So really I'm I as "Dean" Salvador Mendoza J848 ociates how to avoid becoming valid | er individual a little. This not tripping." Staff |
| , | | A second | • |
| • | · · · · · · · · · · · · · · · · · · · | onal space needed, attach another sheet.) | |
| 4) Type and curre | nt location of documentation | n, (for example: CDC-128-B of 5-15-86 in t | the confidential material |
| folder). | | | |
| Confidential | Memorandum dated Oct | tober 3, 2005 in confidential section o | of C-File |
| 2/-/-14 | Office of Course of the U | | June 2, 2006 |
| D. T. Hawkes, C | orrectional Counselor II | | DATE DISCLOSED |

Page 41 of 84---

STATE OF CALIFORNIA CDC 1030 (12/86)

ATMENT OF CORRECTIONS

| NMATE NUMBER C4 | 13165 INMATI | ACUNA, ARCADIO |
|--|--|---|
| Use of Confidential I | | |
| • | ived from a confidential source(s) has | been considered in the: |
| | | ALIANOTECH DV |
| a) CDC-115, D | isciplinary Report dated | - |
| · | STAFF | AME, TITLE |
| b) CDC-114-D; | Order and Hearing for Placement in S | Segregated Housing dated |
| 2) Poliability of Source | | |
| Z) Reliability of Oddies. | · ource(s) cannot be disclosed without en | ndangering the source(s) or the security of the institution. |
| | considered reliable because: | |
| Inis information is | bas amulausly provided confidential in | nformation which has proven to be true. |
| a) This source | participated in and successfully comp | leted a Polygraph examination. |
| b) This source | participated in and successfully comp | como information |
| c) More than o | ne source independently provided the | and notivity at the time of providing the information. |
| d) This source | incriminated himself/herself in a crimil | nal activity at the time of providing the information. |
| e) ☐ Part of the in | nformation provided by the source(s) h | has already proven to be true. |
| f) 🛛 Other (Expla | ain) | O. W. Att. Often |
| Notes co | nfiscated from Brent Ebert H7833 | 30 of Shermans at Calipatria State Prison. |
| Disclosure of inform | ation received. | |
| | | · · |
| | "Anyway get at Cadlo and let hir that Spanky and Straño have a sa | Danny Boy" Daniel Sandigo K07935 of Upland) n know what's up with this vato and also tell afe trip back here." "Spanky" has been identified |
| | | |
| | | |
| | (if additional space need | ded, attach another sheet.) |
| 4) Type and current lo | | e: CDC-128-B of 5-15-86 in the confidential material |
| folder). | | |
| | morandum dated October 12, 20 | 04 in confidential section of C-File |
| - Juilliagurage Me | | |
| D. T. H. 201 | los | |
| CALL SY OFFICE | | 4 0 0000 |
| D. T. Haurison Como | ectional Counselor II | June 2, 2006 DATE DISCLOSED |

DE RIMENT OF CORRECTIONS

| INMATE NUM | BER <u>C43165</u> | INMATE NAME: | ACUNA, ARCADIO |
|---|---------------------------------|--|--|
| 1) Use of Co | onfidential Information. | | |
| Inform | nation received from a confide | ential source(s) has been co | nsidered in the: |
| | DC-115; Disciplinary Report | ' | submitted by |
| a) C | DC-110, Disciplinary Reports | | |
| - | | STAFF NAME, TIT | LE |
| b) C | DC-114-D, Order and Hearin | g for Placement in Segregat | ted Housing dated |
| | | · | |
| 2) Reliability | of Source. | disclosed without and andering | g the source(s) or the security of the institution. |
| | | | g the source(s) or the enemy or the |
| This info | ormation is considered reliable | e pecause: | on which has proven to be true: |
| - a)∏ ∏ | his source has previously pro- | vided confidential informatio | on which has proven to be true |
| | nis source participated in and | | |
| c) 🔲 M | ore than one source independ | dently provided the same inf | formation. |
| d)∏ TI | his source incriminated himse | elf/herself in a criminal activit | ty at the time of providing the information. |
| e) [] P | art of the information provided | d by the source(s) has alread | dy proven to be true. |
| , , | ther (Explain) | | |
| 1) [2] 9 | Address book of EME me | ember "Turtle" Mark Quire | oz C50887 of Colton |
| 3) Disclosur | e of information received. | STILLOT TENTO | |
| | • | | |
| | | | · |
| Acuna's nar book contai were entere | ned the names of over 13 | ok of EME member "Turl 0 EME members and as | tle" Mark Quiroz C50887 of Colton. The sociates. Both Acuna's name and CDC |
| | | • | |
| | · | • | |
| | | | |
| - · · · · · · · · · · · · · · · · · · · | (If | additional space needed, attach | another sheet.) |
| 4) Type and | current location of document | tation, (for example: CDC-1 | 28-B of 5-15-86 in the confidential material |
| folder). | | | |
| | | 10.0001 | |
| Confide | ential CDC Form 128B da | ted August 10, 2004 in c | confidential section of C-File |
| | - 2/2 //- | | |
| 1/1/ | Nomman | | June 2, 2006 |
| D. T. Hawk | es, Correctional Counseld | or II | DATE DISCLOSED |

DL RITMENT OF CORRECTIONS

| INMATE NUMBER C43165 | INMATE NAME: A | CUNA, ARCADIO |
|---|--|---|
| Use of Confidential Information. | | |
| Information received from a confident | al cource(s) has been conside | red in the: |
| | | submitted by |
| a) CDC-115, Disciplinary Report dat | eu | |
| | STAFF NAME, TITLE | |
| b) CDC-114-D, Order and Hearing for | or Placement in Segregated H | ousing dated |
| 2) Reliability of Source. | | |
| The identity of the source(s) cannot be dis | closed without endangering the | source(s) or the security of the institution. |
| This information is considered reliable b | ecause: | |
| a) This source has previously provid | ed confidential information wh | ich has proven to be true. |
| b) This source participated in and su | accessfully completed a Polygr | aph examination. |
| More than one source independe | ntly provided the same informa | tion. |
| d) This source incriminated himself/ | nerself in a criminal activity at t | the time of providing the information. |
| e) ☐ Part of the information provided b | y the source(s) has already pr | oven to be true. |
| f) Other (Explain) | | |
| Note discovered in cell of "[| Duke" Victor Miranda K599 | 50 of Pico Viejo, Dec. 4, 2003 |
| Disclosure of information received. | | |
| The note was sent to Miranda from "Nene" "Beto and Cario are close friends and they did. I got the yaves from Conejo. I can progonna take the yaves, but it was never Tot Conejo and myself all together the truth wi impression and he ran with it." Gilbert Lope "Conejo" of Evergreen. Robert Lopez Coss Bassett Grande. The term "yaves" is "llave behalf of the EME. | work in Auto Body. What he we it, So I think Beto must has o's. It was Terco'sIf I can go Il come out. It will show that yez K86894 is "Beto" of San De 1886 is "Toto" of Santa Paulas," and refers to authorization | ve told Cario I told Ciego that I was get granted to put Ciego, Beto, Cario, yes Beto was under the wrong liego Armando Molinar D53455 is Victor Acuna D33299 is "Terco" of to conduct EME gang activities on |
| | ditional space needed, attach anoth | • |
| 4) Type and current location of documentat | ion, (for example: CDC-128-B | of 5-15-86 in the confidential material |
| folder). | | \ |
| Confidential Memorandum dated [| December 12, 2003 in conf | idential section of C-File |
| -26 Km | | · |
| Jel Nous | | 0. 0000 |
| D. T. Hawkes, Correctional Counselor STAFF SIGNATURE, TITLE | | June 2, 2006 DATE DISCLOSED |
| DISTRIBUTION: WHITE | ற Central File; GREEN ம Inmate; | YELLOW as Institution Use |

DE. RITMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

| NMATE NUMBER C43165 | INMATE NAME: ACUNA, ARCADIO |
|--|---|
| 1) Use of Confidential Information. | |
| Information received from a confide | ential source(s) has been considered in the: |
| | |
| a) CDC-115, Disciplinary Report | - |
| | STAFF NAME, TITLE |
| b) CDC-114-D. Order and Hearin | ng for Placement in Segregated Housing dated |
| | |
| 2) Reliability of Source. | disclosed without endangering the source(s) or the security of the institution. |
| | |
| This information is considered reliable | |
| a) This source has previously pro | ovided confidential information which has proven to be true. |
| | d successfully completed a Polygraph examination. |
| c) More than one source indepen | idently provided the same information. |
| d) This source incriminated himse | elf/herself in a criminal activity at the time of providing the information. |
| e) Part of the information provide | d by the source(s) has already proven to be true. |
| | |
| · · · · · · · · · · · · · · · · · · · | |
| B) Disclosure of information received. | |
| An EME associate during a debriefing who continues to participate in EME (| g interview, reported that Acuna is an inactive EME associate gang politics. |
| | |
| | |
| | |
| and the second s | |
| | |
| _ (I f | additional space needed, attach another sheet.) |
| 4) Type and current location of documen | itation, (for example: CDC-128-B of 5-15-86 in the confidential material |
| folder). | |
| Confidential Memorandum dated | November 18, 2003 in confidential section of C-File |
| D. T. Haulin _ | |
| D. Tille dies Commeller of Commeller | June 2, 2006 |
| D. T. Hawkes, Correctional Counselo | TLE DATE DISCLOSED |

DISTRIBUTION: WHITE to Central File; GREEN to Inmate: YELLOW to Institution Use

DL ARTMENT OF CORRECTIONS

| NMATE NUMBER | C43165INMATE NAME: ACUNA, ARCADIO | |
|--|--|--|
| Use of Confide | ential Information. | |
| Information | n received from a confidential source(s) has been considered in the: | submitted by |
| | STAFF NAME, TITLE | |
| b) CDC-1 | 114-D, Order and Hearing for Placement in Segregated Housing dated | |
| This informat | of the source(s) cannot be disclosed without endangering the source(s) or the secul | |
| a) This se | ource has previously provided confidential information which has proven to be ource participated in and successfully completed a Polygraph examination. | true. |
| a) M More i | than one source independently provided the same information. source incriminated himself/herself in a criminal activity at the time of providing | the information. |
| e)⊠ Parto | of the information provided by the source(s) has already proven to be true. (Explain) | |
| | information received. | • |
| changed to inactive There were doubted the gang. While at EME members "Te Loma, and "Popey Mark Galvan H917" | | ot killed anyone for as sending money to D16318 of Geraghty targeted "Squid" nother person |
| | (If additional space needed, attach another sheet.) | |
| 4) Type and cur | rrent location of documentation, (for example: CDC-128-B of 5-15-86 in the cor | nfidential material |
| folder). | | |
| Confidentia | al Memorandum dated September 23, 2003 in confidential section of C-F | ile |
| D.T. 3 | Fundament of the state of the s | 2, 2006 |
| D. T. Hawkes, | | SCLOSED |

DE RTMENT OF CORRECTIONS

| INMATE NUMBER | C43165 | INMATE NAM | ME: ACUNA, ARCA | OIO |
|---------------------------------|--|---|---------------------------------------|------------------------------|
| 1) Use of Confiden | tial Information. | | | • |
| Information | received from a confidenti | al source(s) has been | considered in the: | , |
| | 5, Disciplinary Report dat | • | | submitted by |
| 2, 22 | | | | (|
| | | STAFF NAME, | TITLE | |
| b) CDC-11 | 4-D, Order and Hearing fo | or Placement in Segre | gated Housing dated _ | |
| 2) Reliability of Sou | ırce. | | | |
| The identity of t | he source(s) cannot be dison is considered reliable b | | ering the source(s) or the | security of the institution. |
| | rce has previously provide | | ation which has proven t | o be true. |
| | rce has previously providence participated in and su | | | |
| | irce participated in and su an one source independer | | | ·· , |
| c) 🔀 Wore tha | rce incriminated himself/h | verself in a criminal ac | fivity at the time of provi | ding the information. |
| | ne information provided by | | | |
| | xplain) | | | <u> </u> |
| 1) 🗀 Oaler (c | λριαπ) | | | |
| 3) Disclosure of inf | ormation received. | | | |
| how to communic Acuna used "Dea | e reported that "Cadio" ate in code. Acuna use n" Salvador Mendoza una's return to active s | ed this code in his c to assist in redirecti | correspondence with ' | Popeye at PBSP |
| | | v | | |
| | | · | · · · · · · · · · · · · · · · · · · · | |
| | | | | • |
| | _ (If add | lltional space needed, atta | ach another sheet.) | , |
| 4) Type and currer | nt location of documentation | on, (for example: CDC | :-128-B of 5-15-86 in the | confidential material |
| folder). | | | | |
| Confidential I | Memorandum dated A | ugust 8, 2002 in co | nfidential section of C | -File |
| | <u> </u> | | \ | |
| D.1. 1200 | and the same of th | • | | |
| D. T. Hawkes, Co | orrectional Counselor I | <u> </u> | | une 2, 2006 TE DISCLOSED |

| NMATE I | NUMBER C43165 INMATE NAME: ACUI | NA, ARCADIO |
|--------------------------------|--|---|
| 1) Use o | of Confidential Information. | |
| , Ir | Information received from a confidential source(s) has been considered | in the: |
| | a) CDC-115, Disciplinary Report dated | |
| | · | |
| | STAFF NAME, TITLE | |
| b | b) CDC-114-D, Order and Hearing for Placement in Segregated Housi | ng dated |
| 2) Relia | ability of Source. | |
| The | e identity of the source(s) cannot be disclosed without endangering the sour | ce(s) or the security of the institution. |
| This | is information is considered reliable because: | |
| a)[| ☐ This source has previously provided confidential information which h | as proven to be true. |
| b)[| and a second of the second of the completed a Polygraph | examination. |
| c)[| More than one source independently provided the same information. | • |
| d)[| — and the state of the mark in a priminal activity at the ti | me of providing the information. |
| . e)[| - the second by the course of bas already proven | to be true. |
| | Other (Explain) | |
| 1) 2 | Letter from Josie Acuna to Arcadio Acuna | |
| 3) Discl | closure of information received. | |
| • | | |
| at the D and Est anythin | tter, Josie Acuna informed Arcadio Acuna that she encountered Department of Motor Vehicles. She informed Acuna that she gastrada said he would soon be corresponding with him. Josie Acring important to pass along to Estrada, he simply needs to send rit to Estrada | una also stated that if there is |
| | (If additional space needed, attach another sh | eet.) |
| 4) Type | pe and current location of documentation, (for example: CDC-128-B of 5 | 15-86 in the confidential material |
| folder). | | |
| | onfidential CDC Form 128B dated September 21, 2000 in confi | dential section of C-File |
| | | |
| | Tallowa | |
| D T L | Hawkes, Correctional Counselor II | June 2, 2006 |
| ١٠١٠١٠١ | STAFF SIGNATURE, TITLE | DATE DISCLOSED |

Filed 06/23/2008 Page 48 of 84

Ex. F

DES TMENT OF CORRECTIONS

| INMATE NUN | MBER | C43165 | | INMATE NAME: | ACUNA, ARCADIC | |
|---|---|---|---|--|--|---|
| 1) Use of C | onfident | ial Information. | 4. | | | N. |
| Infor | mation r | eceived from a confid | dential source | (s) has been con | nsidered in the: | |
| | | 5, Disciplinary Repor | | | | submitted by |
| α, ι | | - (- (- (- () | | , | | |
| | | | | STAFF NAME, TITI | LE | |
| b) (| CDC-11 | I-D, Order and Heari | ing for Placem | nent in Segregat | ed Housing dated | · . |
| 2) Rellabilit | y of Sou | rce. | | | | |
| The ide | entity of ti | ne source(s) cannot b | e disclosed wit | thout endangering | g the source(s) or the secu | rity of the institution. |
| This int | formatio | n is considered relial | ole because: | - | • | |
| a)[] T | This sou | ce has previously pr | ovided confid | ential information | n which has proven to be | true. |
| b) <u></u> | This sou | rce participated in an | d successfully | y completed a P | olygraph examination. | |
| c) 🖂 N | More tha | n one source indepe | ndently provid | led the same inf | ormation. | |
| d)⊠ T | This sou | rce incriminated hims | self/herself in | a criminal activit | y at the time of providing | the information. |
| e) 🖾 F | Part of th | e information provid | ed by the sou | rce(s) has alread | dy proven to be true. | * . |
| | | kplain) | | | | |
| | | | | | | • |
| 3) Disclosu | ire of inf | ormation received. | , | | | |
| representa when he w he wrote to "Wolfie" Lo he was ass | itives in ras eati o EME a ouis Rol saulted | PBSP B Facility, ng in the dining ro- associate "Gusi" G | and was sla om. After Ac Justavo Flor Jisa Blanca b m. Instead, l | shed across tr suna arrived at es C62331 of l ecause Roble Robles was cl | Acuna was one of the ne face by a Northern I PBSP Administrative Rivas and directed an as failed to warn or asseared of any wrongdoionga. | Segregation Unit, assault on ist Acuna when |
| | | | on additional son | ce needed, attach | another sheet) | |
| - | | | | | A Committee of the Comm | didential material |
| 4) Type an | | | | | 28-B of 5-15-86 in the con | Macina materia |
| folder) | | | | | | |
| Confid | dential I | Memorandum date | ed February | 1, 1993 in cor | ifidential section of C-F | -ile |
| | | , / | | • | | |
| | TA | dalis | | | | |
| D. T. Haw | kes, Co | rrectional Counse | lor II | | | 2,2006 ISCLOSED |
| | • | STAFF SIGNATURE, 7 | HILE. | | VELLOW — lastitution [| lea |

MENT OF CORRECTIONS

| NMATE NUMBER C43165 | INMATE NAME: | ACUNA, ARCADIO | |
|--|--|--|------------------------------|
| Use of Confidential Information. | | | |
| Information received from a | confidential source(s) has been cor Report dated | nsidered in the: | ubmitted by |
| | STAFF NAME, TITL | LE | |
| b) CDC-114-D, Order and | Hearing for Placement in Segregate | ed Housing dated | |
| This information is considered a) This source has previous b) This source participated c) More than one source in d) This source incriminated e) Part of the information points f) Other (Explain) | usly provided confidential information if in and successfully completed a Poundependently provided the same inful independently provided by the source(s) has alread | n which has proven to be true. olygraph examination. formation. ty at the time of providing the interest of th | |
| 3) Disclosure of information received | ved. | • | |
| This is a debriefing interview wassociate known as "Cadio" of 1990 by a gang rival, a Northe Winston D51285) | vith an EME associate. The sou Cucamonga. He stated Acuna ern Hispanic (identified in the rep | port as NS member "Oso" G | IME ning Room in erald |
| · | (If additional space needed, attach | | |
| folder). | ocumentation, (for example: CDC-1 m dated February 10, 1995 in c | | ial material |
| Configerman Worndrandan | | | |
| D. T. Maurica Correctional Co | ounselor II | June 2, 200 | |
| D. T. Hawkes, Correctional Constant Staff Signa | ATURE TITLE | DATE DISCLOS | اسا ا |

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STATE OF CALIFORNIA CDC 1030 (12/86)

DL MENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

| NMATE NUMBER | C43165 | INMATE NAME: | ACUNA, ARCADIO |) |
|--------------------|---|---|---------------------------|---------------------------------|
| 1) Use of Confide | ntial Information | | | · · |
| • | received from a confidential source | e(s) has been con: | sidered in the: | 7 |
| | • | | | submitted by |
| a) CDC-1 | 15, Disciplinary Report dated | | | |
| | | STAFF NAME, TITLE | | |
| b) CDC-1 | 14-D, Order and Hearing for Place | ment in Segregate | d Housing dated | 1 |
| This informati | the source(s) cannot be disclosed voice is considered reliable because urce has previously provided confi | dential information | which has proven to be | |
| b) This so | urce participated in and successfu | lly completed a Po | lygraph examination. | |
| 157 Mayo # | on one source independently prov | rided the same info | rmation. | |
| d\⊠ This so | ource incriminated himself/herself i | n a criminal activity | rat the time of providing | g the information. |
| a) [2] Part of | the information provided by the so | urce(s) has alread | y proven to be true. | |
| 6/ Other | Explain) | | | |
| f) [Other (| | | | |
| 3) Disclosure of i | nformation received. | | · | |
| | cture member reported during in 1990 by "Oso" Gerald Wins d assaults against Northern Hi | 111111111111111111111111111111111111111 | JUI G G T 100 - 1 101 1 | s assaulted at EME associate |
| · | | | | |
| | | | | • |
| , A | | ٥ | , | |
| | (If additional s | pace needed, attach a | another sheet.) | |
| | | | | onfidential material |
| 4) Type and curi | ent location of documentation, (for | example; CDC-12 | .0-D 01 0 10 00 M INV | |
| folder). | · | | | |
| Confidentia | al Memorandum dated March | 29, 2004 in confi | dential section of C-F | -ile |
| | 7/ | • | | |
| 77.7 | Contraction | | | |
| D T Hawkes | Correctional Counselor II | | | e 2, 2006 DISCLOSED |
| D. I. Havinou, | STAFF SIGNATURE, TITLE | | UAIE | - 1100 |

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STATE OF CALIFORNIA CDC 1030 (12/86)

TMENT OF CORRECTIONS DL

| INMATE NUMBER | C43165 | INMATE NAME: | ACUNA, ARCADIO | <u> </u> |
|------------------------------------|--|--------------------------|---------------------------|---------------------------|
| . 1) Use of Confiden | ntial Information. | | | |
| Information | received from a confidential sou | irce(s) has been con | sidered in the: | ` |
| | 15, Disciplinary Report dated | | | submitted by |
| a) 0001 | | | ` | |
| • | | STAFF NAME, TITL | | |
| b) CDC-1 | 14-D, Order and Hearing for Pla | cement in Segregate | d Housing dated | <u> </u> |
| 2) Reliability of Sc | urce. | : | • | |
| | the source(s) cannot be disclosed on is considered reliable becaus | | the source(s) or the sect | urity of the institution. |
| a) This so | urce has previously provided co | nfidential information | which has proven to be | true. |
| | urce participated in and success | | | • |
| | an one source independently pr | | | |
| d)⊠ This so | urce incriminated himself/hersel | f in a criminal activity | at the time of providing | the information. |
| | the information provided by the | | | |
| | Explain) | | | |
| | · . | | | • |
| Disclosure of in | formation received. | X | • | |
| Sisneros D68626 identified as prov | associate reported that Acu i) of Trece Locos were direct iding weapons to other EME as "Cadio" of Cucamonga. | ting the gang activ | ities in PBSP ASU in | 1 1990. Acuna was |
| • | | | | · |
| . ` | /If additional | space needed, attach a | nother sheet.) | |
| | - | · | | Sidential material |
| Type and curre | nt location of documentation, (fo | or example: CDC-128 | 3-B of 5-75-86 in the cor | maenai maienai |
| folder). | · · · · · · · · · · · · · · · · · · · | | | |
| Confidential | Memorandum dated March | 5, 2002 in confide | ntial section of C-File | |
| 77.7.7 | fi an | | | |
| D. T. Haurkas C | orrectional Counselor II | | | 2, 2006 |
| L. I. HAWKES, C | STAFF SIGNATURE, TITLE | | DATE D | ISCLOSED |

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TIMENT OF CORRECTIONS

| NMATE NUMBER | C43165 | INMAT | E NAME: ACL | JNA, ARCADIO | |
|--|---|---|---|--|---|
|) Use of Confide | ential Information. | | > | • | |
| Informatio | n received from a confide | ntial source(s) has | been considered | in the: | : |
| | I15, Disciplinary Report d | | | · | submitted by |
| -, | | | | | • |
| | | STAFF | IAME, TITLE | | |
| b) CDC- | 114-D. Order and Hearing | for Placement in | Segregated Hous | ing dated | • |
| Reliability of S | ource. | | | | |
| The identity of | f the source(s) cannot be o | lisclosed without en | dangering the sou | irce(s) or the secur | ity of the institution. |
| This informa | tion is considered reliable | because: | | | |
| a)∐ This s | ource has previously prov | ided confidential in | iformation which | has proven to be f | rue. |
| b) This so | ource participated in and | successfully comp | leted a Polygraph | examination. | |
| c) More t | han one source independ | ently provided the | same information | 1. | |
| | ource incriminated himsel | | | | he information. |
| · · · | the information provided | | | | • |
| f) 🛛 Other | | | | | , |
| Coc 3) Disclosure of i | led communication fro nformation received. | m EME member | Ruben Hemar | ndez C04672 to | Асила |
| Tupi" Ruben He he message, H nade out alrigh | the misuse of legal as ernandez C-04672 to p ernandez made refere t. 7 years." Hemandez ong information to Acu amonga. | pass along a coo nce to " <u>Estrada</u> z referenced a v | led message or v. Cucamonga olume of the Da | n January 26, 19 94 Daily Journa ally Journal that | 194, to Acuna. In Il 237. Tudy did not exist in |
| | | | | | • |
| | | | | | |
| | _ (If a | dditional space needs | ed, attach another st | heet.) | |
| 1) Type and curr | ent location of documenta | ation, (for example | : CDC-128-B of 5 | i-15-86 in the confi | dential material |
| older) | <u> </u> | | · | | |
| Confidentia | l Memorandum dated | January 31, 199 | 4 in confidentia | al section of C-F | ile |
| | 2/ V | | | • | |
| (1.1-6) | Elshion | | | | • |
| D. T. Hawkes, 0 | Correctional Counselor | | | June 2, DATE DIS | |
| | STAFF SIGNATURE, TITL | .C | | トン・ト ひょう | ~,~~~ |

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STATE OF CALIFORNIA CDC 1030 (12/86)

TMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

| NMATE NUMBER | C43165 | INMA | TE NAME: ACI | UNA, ARCADIO | |
|--------------------------------------|---|--|-----------------------------------|------------------------------------|---------------------|
| Use of Confiden | tial Information. | | | | |
| Information | received from a confid | dential source(s) h: | as heen considere | d in the: | |
| | | | 25 25011 501151.2310 | • 111 • 110 | submitted by |
| a) CDC-11 | 5, Disciplinary Repor | i daleu | | | |
| | | STAFF | NAME, TITLE | | : |
| b) CDC-11 | 4-D, Order and Heari | ng for Placement i | n Segregated Hou | sing dated | |
| 2) Reliability of Sor | irce. | 1 | | | |
| The identity of t | he source(s) cannot be on is considered reliat | in the second se | endangering the so | urce(s) or the security | of the institution. |
| | rce has previously pr | | information which | has proven to be tn | ue. |
| b) This cou | rce participated in an | id successfully con | inleted a Polygrap | h examination. | |
| | an one source indepe | | | | |
| c)⊠ More the | an one source indepe irce incriminated hims | colf/herself in a cric | oinal activity at the | time of providing the | e information. |
| | | | | | |
| | ne information provide | ed by the source(s) |) ilas alleady prov | 71 W DO 1. GO. | |
| f) [] Other (E | xplain) | | | | |
| 3) Disclosure of inf | ormation received | | | | |
| ij Bibbliobuid bijiiii | | ٠. | | , | |
| Ducamonga, and also reported that | nn interview with ar reported that Acur : Acuna's crime par P B Facility by EM | na was recently (rtner was "Huero | 1993) granted E " Marco Ramire | ME membership. z C55431 of Onta | rne source |
| | | · . | | | |
| | • | | (| | |
| • | | | , | ÷ | |
| | . (| if additional space nee | eded, attach another s | sheet.) | |
| () Tupo and curren | nt location of docume | - ntation <i>(for exam</i> c | le: CDC-128-B of | 5-15-86 in the confid | ential material |
| | te location of docume | manon, tion original | | | |
| older). | | | | | |
| Confidential | Memorandum date | ed May 13, 1993 | in confidential s | ection of C-File | |
| | 1 | | | | |
| 11-1- Now | fixe | | • | · · | |
| D. T. Hawkes, Co | orrectional Counse | lor II | | June 2, 3 | |
| | STAFF SIGNATURE T | ITLE | | DATE DISC | LUSEU. |

DISTRIBUTION: WHITE to Central File; GREEN to Inmate; YELLOW to Institution Use

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STATE OF CALIFORNIA CDC 1030 (12/86) DI TMENT OF CORRECTIONS

| NMATE NUMBER C43165 | INMATE NAME: ACUNA, ARCADIO |
|---|--|
| l) Use of Confidential Information. | |
| Information received from a confiden | itial source(s) has been considered in the: |
| a) CDC-115. Disciplinary Report da | submitted by |
| a, 555 (x. x x x x x x x x x x | • |
| | STAFF NAME, TITLE |
| b) CDC-114-D, Order and Hearing | for Placement in Segregated Housing dated |
| 2) Reliability of Source. The identity of the source(s) cannot be d This Information is considered reliable | isclosed without endangering the source(s) or the security of the institution. |
| This rouge has previously provi | ided confidential information which has proven to be true. |
| a) This source has previously provi | successfully completed a Polygraph examination. |
| than than one source independ | ently provided the same information. |
| c) More than one source independ | f/herself in a criminal activity at the time of providing the information. |
| d) This source incriminated nimises | by the source(s) has already proven to be true. |
| f) Other (Explain) | |
| Letter from Gavaldon C15 | 377 to Gavaldon C15376 |
| Disclosure of information received. | |
| Spider David Gavaldon C15376, the selector from a lawyer who has an office for David Gavaldon signed by various Gavaldon, with portions in Spanish tragreetings. Hope to see you again soon (numbers written in Nahuatl), reference granted EME membership, and other | additional space needed, attach another dispers |
| 4) Type and current location of documents | ation, (for example: CDC-128-B of 5-15-86 in the confidential material |
| folder): | |
| Confidential Memorandum dated | October 29, 1992 in confidential section of C-Fije |
| D-T. Heuke | |
| • | June 2, 2006 |
| D. T. Hawkes, Correctional Counselo | DATE DISCLOSED |

DE" TMENT OF CORRECTIONS

| NMATE NUMBER C43165 | INMATE NAME: _A | CUNA, ARCADIO | |
|---|---------------------------------------|--|-----------------|
| Use of Confidential Information. | | | |
| Information received from a confider | ntial source(s) has been conside | ered in the: | |
| a) CDC-115, Disciplinary Report d | | submitted b | y · |
| | . · | | · |
| | STAFF NAME, TITLE | | |
| b) CDC-114-D, Order and Hearing | for Placement in Segregated H | lousing dated | |
| 2) Reliability of Source. | | | |
| The identity of the source(s) cannot be d | | source(s) or the security of the institution | ο π. |
| This information is considered reliable | pecause: | sich has nroven to be true | |
| a) This source has previously prov | ided confidential information with | ranh avamination | |
| b) This source participated in and | | | • |
| c) More than one source independ | ently provided the same informa | the time of providing the information | |
| d)⊠ This source incriminated himsel | f/herself in a criminal activity at | the time of providing the information. | |
| e) Part of the information provided | by the source(s) has already pr | oven to be true. | |
| f) Cther (Explain) | | | |
| 3) Disclosure of information received. | | | -: - |
| a) Disclosure of thickmedian recent and | | | • |
| This is an interview with an EME asso | ociate who identified Acuna | as an active EME associate. Acı | ına |
| is referenced on a list as an EME asso | ociate. No specific gang act | tivity is identified. | |
| | | | |
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| | | . ' | |
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| | | • • | |
| llf a | additional space needed, attach anoth | ner sheet.) | |
| • | | · · · · · · · · · · · · · · · · · · · | I |
| 4) Type and current location of documents | ation, (for example: CDC-120-b | 01 9-19-00 III the cothlecting material | • |
| folder). | | | • |
| Confidential Memorandum dated | August 31, 1990 in confider | ntial section of C-File | |
| -0/12 | • | • | |
| D. T. Hanka | | | |
| D. T. Hawkes, Correctional Counselo | <u>r II</u> | June 2, 2006 DATE DISCLOSED | <u> </u> |
| STAFF SIGNATURE, TITE | | DATE DISCLUSED | |

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STATE OF CALIFORNIA CDC 1030 (12/86) TMENT OF CORRECTIONS

| INMATE NUMBER | -C43165 | INMATE NAME: | ACUNA, ARCADIO | |
|---|--|--|-------------------------------|------------------------|
| 1) Use of Confider | | | | |
| | ······································ | ential source(s) has been co | nsidered in the: | |
| | | • | | submitted by |
| a) CDC-11 | 5, Disciplinary Report of | dated | | - |
| | | STAFF NAME, TIT | LE | |
| b) CDC-11 | 4-D, Order and Hearing | ng for Placement in Segregat | ed Housing dated | |
| 2) Reliability of So | urce. | | | |
| The identity of | he source(s) cannot be | disclosed without endangering | g the source(s) or the securi | ty of the institution. |
| This information | on is considered reliable | le pecause; | n which has proven to he t | rue |
| a) 🔲 This sou | irce has previously prov | ovided confidential informatio | II Willow has proven to be t | |
| | | d successfully completed a P | | |
| c) More th | an one source independ | ndently provided the same inf | ormation. | |
| d) 🖾 This so | irce incriminated himse | elf/herself in a criminal activit | y at the time of providing t | ne information. |
| e)⊠ Part of t | he information provided | ed by the source(s) has alread | dy proven to be true. | • |
| · • | | | | |
| ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,, | | | | |
| 3) Disclosure of in | formation received. | | | • |
| tenner on "Carria" | The source stated t Prison Sacramento C | EME associate, who ider that Acuna may have bee County on May 25, 1989 (| en involved in the not di | at took blace ar |
| | · · · · · · · · · · · · · · · · · · · | • | | |
| | | , | | |
| | | | | |
| | • | f additional space needed, attach | . - | - |
| 4) Type and curre | nt location of document | ntation, (for example: CDC-12 | 28-B of 5-15-86 in the conf | idential material |
| folder). | | | | · |
| • | Memorandum dated | d September 20, 1989 in | confidential section of (| C-File |
| - 01 | 7 | · | | |
| 11/1/2 | file | | | |
| D T Hawkes C | orrectional Counseld | or II | June 2 | |
| L. I. HOWNES, U | JII JUILIAN OUT OUT THE | TIE | DATE DIS | CLOSED |

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STATE OF CALIFORNIA CDC 1030 (12/86)

TMENT OF CORRECTIONS

| INMATE NUMBER C43165 | INMATE NAME: ACUNA, ARCADIO |
|--|--|
| Use of Confidential Information. | |
| Information received from a | confidential source(s) has been considered in the: |
| a) CDC-115, Disciplinary R | ويوا لمصافقته والبرا |
| a) CDC+110, Discipilitary 1 | |
| | STAFF NAME, TITLE |
| b) CDC-114-D, Order and l | Hearing for Placement in Segregated Housing dated |
| 2) Reliability of Source. | |
| The identity of the source(s) can This information is considered | not be disclosed without endangering the source(s) or the security of the institution. reliable because: |
| | sly provided confidential information which has proven to be true. |
| a) This source has previous | in and successfully completed a Polygraph examination. |
| | dependently provided the same information. |
| c) More than one source in | t himself/herself in a criminal activity at the time of providing the information. |
| d) This source incriminated | a number of the course (c) has already proven to be true. |
| | rovided by the source(s) has already proven to be true. |
| f) Cther (Explain) | |
| 3) Disclosure of information received During a debriefing interview, al "Gladio." Acuna is referenced of | ed. n EME associate identified Acuna as an EME associate he knew as on a list as an EME associate. No specific gang activity is identified |
| | |
| | |
| | |
| | t to the top of the state of th |
| | (If additional space needed, attach another sheet.) |
| 4) Type and current location of doc | cumentation, (for example: CDC-128-B of 5-15-86 in the confidential material |
| folder). | |
| Confidential Memorandum | dated October 11, 1988 in confidential section of C-File |
| D.T. Harlin | |
| D. T. Hawkes, Correctional Co. | unselor II June 2, 2006 |
| STAFF SIGNATI | URE, TITLE DATE DISCLOSED |

Case 3:07-cv-05423-VRW

Document 16-18

Filed 06/23/2008 Page 59 of 84

Ex. G

Page 60 of 84

STATE OF CALIFORNIA CDC 1030 (12/86)

DE TMENT OF CORRECTIONS

CONFIDENTIAL INFORMATION DISCLOSURE FORM

| NMATE NUMBER | C43165 | INMATE NAME: | ACUNA, ARCADI | 0 |
|--|---|---|--|---------------------------------|
|) Use of Confide | | | | |
| Information | received from a confidential s | cource/s) has been cor | nsidered in the: | • |
| | ` | | | submitted by |
| a) CDC-1 | 15, Disciplinary Report dated | | **** | |
| · | | STAFF NAME, TITL | E | |
| b) CDC-1 | 14-D, Order and Hearing for P | lacement in Segregate | ed Housing dated | |
| | • | • | | 1 |
| e) Reliability of So | the source(s) cannot be disclos | ed without endangering | the source(s) or the sec | urity of the institution. |
| | on is considered reliable beca | | | |
| | urce has previously provided o | | n which has proven to b | e true. |
| | | | | \ |
| | urce participated in and succe | | | |
| | an one source independently | | | - Alex information |
| | urce incriminated himself/hers | | | g the information. |
| e) 🛛 Part of | the information provided by the | e source(s) has alread | y proven to be true. | |
| f) 📋 Other (i | Explain) | | | |
| ^ | · · · · · · · · · · · · · · · · · · · | · . | | |
|) Disclosure of in | formation received. | | • | |
| his is a debriefinew as "Cadio" ctivity is identific | ng interview with an EME r of Cucamonga. Acuna is r ed. | member, who identi eferenced on a list | fied Acuna as an EM as an EME associate | E associate he No specific gan |
| | | | | |
| | | | | |
| | | | | |
| • | (If addition | nal space needed, attach a | another sheet.) | |
| _ | • | · | | nfidential material |
|) Type and curre | nt location of documentation, | (for example: CDC-12 | 8-B DI 5-15-00 III me co | muchai marcha |
| older). | | | | |
| Confidential | Memorandum dated June | 17, 2003 in confide | ential section of C-File | e |
| | | | | |
| 77.1. How | | | | |
| T Houdes C | orrectional Counselor II | | . June | 2, 2006 |
| <u>J. 1. 11aWK68, U</u> | STAFF SIGNATURE, TITLE | | | DISCLOSED |

DISTRIBUTION: WHITE to Central File; GREEN to Inmate; YELLOW to Institution Use

MENT OF CORRECTIONS Dί

STATE OF CALIFORNIA CDC 1030 (12/86)

CONFIDENTIAL INFORMATION DISCLOSURE FORM

| NMATE NUMBER C43165 | INMATE NAME: | ACUNA, ARCADIO |
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| | | |
| I) Use of Confidential Information. | | A be seed the Alexan |
| Information received from a confidential so | | sidered in the: |
| a) CDC-115, Disciplinary Report dated | | . submitted by |
| | STAFF NAME, TITL | E |
| | | d Housing dated |
| b) CDC-114-D, Order and Hearing for Pla | acement in Segregate | ed Housing dated |
| 2) Reliability of Source. | | V CA institution |
| The identity of the source(s) cannot be disclose | d without endangering | the source(s) or the security of the institution. |
| This information is considered reliable becau | ise: | |
| a) This source has previously provided co | onfidential Information | which has proven to be true. |
| b) This source participated in and success | sfully completed a Po | olygraph examination. |
| c) More than one source independently p | rovided the same info | ormation. |
| d)⊠ This source incriminated himself/herse | of in a criminal activity | y at the time of providing the information. |
| e) Z Part of the information provided by the | source(s) has alread | y proven to be true. |
| f) Other (Explain) | | |
| | | |
| 3) Disclosure of information received. | | |
| An informant stated a conflict occurred betw Library on December 4, 2001. When Acuna goes behind the counter, Smith began callin this resulted in Smith having safety concern | ng Acuna a "rat" an | d a "snitch." According to the informant, |
| | | |
| | | |
| | | |
| - (if additions | al space needed, attach | another sheet.) |
| 4) Type and current location of documentation, (| | |
| folder). | | |
| Confidential Memorandum dated Dece | umber 12 2001 in d | confidential section of C-File |
| Confidential iviemorandum dated Dece | THE GOLD IN | |
| D.T. Haules | | |
| D. T. Handens, Correctional Counselor II | | June 2, 2006 |
| D. T. Hawkes, Correctional Counselor II | | DATE DISCLOSED |

DISTRIBUTION: WHITE IN Central File; GREEN IN Inmate; YELLOW IN Institution Use

TMENT OF CORRECTIONS

| NMATE NUMBER C43165 | INMATE NAME: ACUNA, ARCADIO |
|--|--|
| 1) Use of Confidential Information. | |
| Information received from a confiden | itial source(s) has been considered in the: |
| a) CDC-115, Disciplinary Report da | out projected by |
| ay obe frequency to pro- | |
| | STAFF NAME, TITLE |
| b) CDC-114-D, Order and Hearing | for Placement in Segregated Housing dated |
| 2) Reliability of Source. | |
| | isclosed without endangering the source(s) or the security of the institution. |
| This information is considered reliable | because: |
| a) This source has previously provi | ided confidential information which has proven to be true. |
| | successfully completed a Polygraph examination. |
| c) More than one source independe | ently provided the same information. |
| d)⊠ This source incriminated himself | /herself in a criminal activity at the time of providing the information. |
| e) 🛛 Part of the information provided | by the source(s) has already proven to be true. |
| f) Other (Explain) | |
| | |
| Disclosure of information received. | |
| • | |
| | associate identified Acuna as an EME associate he knew as |
| During a deprieting interview, all EME "Areadio" of Cucamonda, Acuna is refe | erenced on a list as an EME associate. No specific gang |
| activity is identified | |
| donethy to the transfer of the | |
| | |
| | |
| | |
| - (If ac | dditional space needed, attach another sheet.) |
| 4) Type and current location of documenta | ation, (for example: CDC-128-B of 5-15-86 in the confidential material |
| folder). | |
| Confidential Memorandum dated | January 5, 2000 in confidential section of C-File |
| 7 7/2 /de | |
| 1. Je Nouve | June 2, 2006 |
| D. T. Hawkes, Correctional Counselor | E DATE DISCLOSED |

TMENT OF CORRECTIONS

| NMATE NUMBER C43165 | NMATE NAME: | ACUNA, ARCADIO |) |
|---|--|---|---------------------------|
| 1) Use of Confidential Information. | | | · |
| Information received from a confidentia | al source(s) has been co | nsidered in the: | |
| a) CDC-115, Disciplinary Report date | | | submitted by |
| a). Obo-110, bisopinary resport date | | | • |
| | STAFF NAME, TITI | LE | |
| b) CDC-114-D, Order and Hearing for | r.Placement in Segregat | ed Housing dated | • |
| 2) Reliability of Source. | · | | |
| The identity of the source(s) cannot be disc | losed without endangering | g the source(s) or the secu | urity of the institution. |
| This information is considered reliable be | ecause: | • | |
| a) This source has previously provide | d confidential information | n which has proven to be | true. |
| b) This source participated in and suc | cessfully completed a P | olygraph examination. | · |
| c) More than one source independent | lly provided the same inf | omation. | |
| d)⊠ This source incriminated himself/he | erself in a criminal activit | ly at the time of providing | the information. |
| e) Part of the information provided by | the source(s) has alread | dy proven to be true. | |
| f) Other (Explain) | | | |
| | | | |
| 3) Disclosure of information received. | | | |
| | | | |
| During a debriefing interview, an EME a 'Cadio" of Cucamonga. Acuna is referen | ssociate identified Acced on a list as an EN | una as an EME assoc dE associate. No spe | cific gang activity |
| s identified. | | • | • |
| | | | • . |
| | | | |
| | Ç | | , |
| (If addit | tional space needed, attach | another sheet.) | |
| Type and current location of documentatio | n. (for example: CDC-12 | 28-B of 5-15-86 in the cor | nfidential material |
| folder). | | | |
| • | | idential section of C-Fi | le . |
| Confidential Memorandum dated Ma | arch 14, 1997 in com | definal section of o 1 | |
| D7 7/1 | | | × |
| e de dans | | June | 2, 2006 |
| D. T. Hawkes, Correctional Counselor II STAFF SIGNATURE, TITLE | | DATED | ISCLOSED |
| DISTRIBUTION: WHITE M | Central File: GREEN oo Inm | nate; YELLOW on Institution (| Ús e |

TMENT OF CORRECTIONS

| INMATE NUMBER C43165 INMATE NAME: ACUNA, ARCADI | 0 |
|---|---------------------------|
| 1) Use of Confidential Information. | |
| Information received from a confidential source(s) has been considered in the: | · |
| a) CDC-115, Disciplinary Report dated | submitted by |
| | - |
| STAFF NAME, TITLE | |
| b) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated | - |
| 2) Reliability of Source. | |
| The identity of the source(s) cannot be disclosed without endangering the source(s) or the sec | urity of the institution. |
| This information is considered reliable because: | |
| a) This source has previously provided confidential information which has proven to be | e true. |
| b) This source participated in and successfully completed a Polygraph examination. | |
| c) More than one source independently provided the same information. | |
| d) This source incriminated himself/herself in a criminal activity at the time of providing | the information. |
| e) Part of the information provided by the source(s) has already proven to be true. | |
| f) Other (Explain) | |
| | |
| 3) Disclosure of information received. | |
| This is a debriefing interview with an EME associate. The source reported that in 1 directing gang activities on behalf of the EME at the PBSP Administrative Segregat source added that Acuna's cellmate was Manuel Aguirre C90519. The source idented EME associate known as "Cadio." | ion unit. The |
| | • |
| | |
| (If additional space needed, attach another sheet.) | |
| 4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the co | nfidential material |
| folder). | |
| Confidential CDC 128B dated November 7, 1996 in confidential section of C-F | ile |
| | , |
| D-T- Stantes | |
| 1 mag | |
| | 2, 2006 DISCLOSED |

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TMENT OF CORRECTIONS

STATE OF CALIFORNIA CDC 1030 (12/86)

| NMATE NUMBER C43165 | INMATE NAME: | ACUNA, ARCADIO | |
|---|--|--|------------------------------------|
| Use of Confidential Information. | | | |
| Information received from a confid | dential source(s) has been cor | nsidered in the: | |
| a) CDC-115, Disciplinary Report | | | submitted by |
| a) CDC-1 to, Disciplinary (Cepon | · datoo | | |
| | STAFF NAME, TITL | E | |
| b) GDC-114-D, Order and Heari | ing for Placement in Segregate | ed Housing dated | - |
| 2) Reliability of Source. | | | |
| The identity of the source(s) cannot be | e disclosed without endangering | g the source(s) or the securi | ty of the institution. |
| This information is considered reliab | | | |
| a) This source has previously pro | ovided confidential information | n which has proven to be to | nje. |
| b) This source participated in an | d successfully completed a Po | olygraph examination. | |
| c) More than one source indepe | | | |
| d) ☑ This source incriminated hims | self/herself in a criminal activit | y at the time of providing th | ne information. |
| e)⊠ Part of the Information provide | ed by the source(s) has alread | ly proven to be true. | |
| f) Other (Explain) | | | |
| () [] Other (Explain) | | | |
| 3) Disclosure of information received. | | | |
| | • · · · · · · · · · · · · · · · · · · · | • | |
| During a debriefing interview, an EN "Cadio" of Cucamonga. Acuna is ref is identified | IE associate identified Acu ferenced on a list as an EN | ina as an EME associa ⁄IE associate. No speci | te he knew as fic gang activity |
| | | | |
| | | | |
| | i | | |
| | • | | |
| | if additional space needed, attach a | another sheet.) | |
| 4) Type and current location of docume | ntation, (for example: CDC-12 | 28-B of 5-15-86 in the confi | dential material |
| folder). | | | |
| Confidential Memorandum date | ed May 2, 1991 in confider | itial section of C-File | |
| 7776 | | | |
| The XI Control | dor II | June 2 | , 2006 |
| D. T. Hawkes, Correctional Counse STAFF SIGNATURE, T | TITLE | DATE DIS | |

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DE MENT OF CORRECTIONS

STATE OF CALIFORNIA CDC 1030 (12/86)

| NMATE NUMBERC4 | 3165 | INMATE NAME: ACUNA, ARCA | 010 |
|---|---|--|-----------------------------|
| Use of Confidential Ir | nformation. | | · |
| Information rocal | and from a confidential si | ource(s) has been considered in the: | • |
| | | | submitted by |
| a) GDC-115, U | sciplinary Report dated | | • |
| | · | STAFF NAME, TITLE | |
| b) CDC-114-D, | Order and Hearing for P | lacement in Segregated Housing dated | <u> </u> |
| 2) Reliability of Source. | | | |
| The identity of the so | ource(s) cannot be disclos | ed without endangering the source(s) or the s | ecurity of the institution. |
| | considered reliable beca | | |
| a) This source h | as previously provided o | confidential information which has proven to | be true. |
| b) This source r | participated in and succes | ssfully completed a Polygraph examination | •. |
| | | provided the same Information. | |
| c) More than on | norminated himself/hers | elf in a criminal activity at the time of provid | ing the information. |
| d) This source in | | a course(s) has already proven to be true. | |
| • | | e source(s) has already proven to be true. | |
| f) 🗌 Other (Explai | n) | | |
| 3) Disclosure of Informa | · | EME associate he knew as "Cadio" of | Cucamonga, Acuna |
| an EME accouste the | milled Acutta as all c | e. No specific gang activity is identified | d |
| is referenced on a list | as an EME associate | i tro aboutte am i | |
| s referenced on a list | as an EME associate | i no operine, gamin | |
| is referenced on a list | as an EME associate | s. No openio, gamb | |
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| is referenced on a list 4) Type and current loc | (if addition | | |
| is referenced on a list 4) Type and current loc | (if addition ation of documentation, | nal space needed, attach another sheet.) (for example: CDC-128-B of 5-15-86 in the | confidential material |
| is referenced on a list 4) Type and current loc folder). | (if addition ation of documentation, | nal space needed, attach a <u>n</u> other sheet.) | confidential material |
| is referenced on a list 4) Type and current loc folder). | (if addition ation of documentation, | nal space needed, attach another sheet.) (for example: CDC-128-B of 5-15-86 in the | confidential material |
| is referenced on a list 4) Type and current loc folder). Confidential Men | (if addition ation of documentation, | nal space needed, attach another sheet.) (for example: CDC-128-B of 5-15-86 in the 9, 1990 in confidential section of C-Fi | confidential material |

- CONFIDENTIAL -



DOCUMENTS FILED UNDER SEAL

(Exhibit W, X, Y, Z to the Informal Response dated March 16, 2006)

EXHIBIT 18

Arcadio Acuna # c. 43165

PBSP-SHU | FDG-113

P. O. BOX 7500

Crescent City, CA 95532

In proper

Superior Court of California Country of Del Norte

In Re:

Arcadio Acasa, Petitioner

ON Habeas Corpus

No. HCPB 06 - 0535

Reply to Informal Response

Comes Now, letitioner Arcadio Acume, a state prisoner proceeding in pro se in the above ontitled cause of action, in reply to Respondent's Informal Response received by letitioner on Mar. 21, 2007, herein admits, desies, and alleges as Collows:

Petitioner admits that he is Not challenging his criminal convictions or sentence but brings he issue the revalidation process that took place on July 20, 2006, that labeled him an active associate of a prison gang after a

previous illegal validations that had errosseously labeled him an active "member" was pre-turned. Petitioner also asserts that the source items relied on do not comport to the criteria established in the Castillo Settlement Agreement and Code of Regulations.

Petitioner admits that pursuant to (allt code of Regulations, (CCR) Title 15, sec. 3370(6), a prisoner classified is inactive may be temporarily removed from the general population and placed in Addeg feriding review of his gaing status, but vehinestly denies that a prisoner may be revalidated as active based on only one source item and sent back to the still to serve a minimum of six years in solitary continuement.

Petitioner asserts that CCR, sec 3378 (g) is absolutely clear of this point and expresses in maidefor language that a prisoner is entitled as a matter of due process to the same procedural protections as required in an initial validation. There is absolutely no suffert for Respondents costention that only one source item is required for a revelocation and this Court need only look to the terms of the Castillo Settlement Agreement (see Petitioner's habies petition, Exh. C) and the Department ours memorisalism white Mar 10, 2005 (see Petitioner's habies petition, Exh. C) and the Department ours memorisalism white Mesopoidest's claim [Settlement Agreement, p. 4, paragraph 9, describing due process on validations and machine reviews in terms of source items (see ccR, see 3578 (c) (4) requiring three source items), see also memorandum dated mar. 10, 2005, 3 tation at 11, paragraph 3, 1 that as additional

due process requirements the "same considerations shall be gives during the inactive review process. The memoriadum also makes relieved to New source them, and istablishes that is additioned to the procedural salequards cited by Respondent all other due process as required in as withat validation applier to a revalidation.]

Furthermore, Petitioner asserts that special notice should be given to the fact Respondent has New readily admitted that the current validation is based on eleven source Hems that do Not meet the requirements for establishing current gang activity. (see Informal Resposse 1.2, paragraph 4) on this basis alone, Petitioner submits that the revalidations should be held to have been illegally obtained.

Isactive Gang Associate May Not Be Revalidated Based On A Single Source Item

Respondent, while admitting that more than half of the source items actually relied on by the LEIU to classify Petitioner as an active associate do not quality as reliable source items pursuant to the criteria contained in the Code of Regulations, Nevertheless argues that the number of Hems used is irrelevant because according to Respondents interpretation of the rules only one source dem is required in a revalidation and la return a prisoner to the situl for six years.

Respondent conveniently ignores the express language of cik, sec. 3378(g), which states that all procedures relating to an initial validation must be met and makes no mention of the Castillo Settlement Agreement or the Memorandam Refutioner

provided as proce that the interpretation of relevant provisions he proferred to the Court that three independent source items are required for both an initial validation and revalidation is valid

with all due respect Petitioner asserts that considering the liberty interests at issue and the duration and circumstances of the six years of solitary continement that arise from a revalidation, together with a review of the language and whent of the process described in the Castillo Settlement Agreement, as a matter of law, and in the interests of justice, the Court should rule that due process in a revalidation includes the provision that three independent source tems be provided that show a presence has been involved in verificable acts of gang misconstruct after he has been involved in verificable acts of gang misconstruct after he has been granted marchive status.

Revalidation was Not Properly Obtained

Again, Respondent in the Informal Response Green, admits that most of the source items cited in the CPC-128 B2 Gang Validation Chronis dated July 27, 2006, do not meet established revalidation require ments (see Informal Response, p. 3, paragraph 2), but their goes on to address eight of the other documents in an altempt to justify what is clearly an illegal validation.

Pointing to a considerated memo dated oct. 05, 2005, Respondent claims that because Petitioner was referenced by name in correstantence between two correstantes who wrote Petitioner may have misted yet another individual this constitutes gang activity under provisions of the Code of Regulations. First

for all the individual Petitioner is alleged to have misted was as inmake who was his cellmake of over a year what Pat hours was housed in the general paper a took of CCI is Tekachezi in The year 2000, yet there is no evidence of how fet hower may have misted him and it is pure speculations is the part pt Respondent to allege that any gang activity was involved. Moreover, because Petitioner was not the author or intended preceptent it the correspondence at issue no direct lax exists to the Peritoner to any specific act of gang misconschict. The second item addressed by Respondent likewise alleges Potitioner was made reference to in a note constructed from lanother gresiner that was not directed to as curring from Retitioner. Respondent speculates that this is indicative of frang activity on the part of petitioner yet carnot say That either of these two sites adviduals ever communicated with letitioner In the context of a revolidation this I dem cannot be accepted as evidence of going activity I Then Three alleges that Petitioner's Name and prison number fire bound in the address book of a rejuted going member, and Respondent claims that this cas be takes as evidence that Retitures is actively involved in gong conduct. This is absolutely fulse as CCR, scc 3378 (c) (e) (b) establishes that lit a forsomer is bound to be in possession it names and addresses of going members or italiates this may be used lagacist that farticular prisoner, but not against the presoner named. It would be a gross miscarriage of justice to allow a prisoner to be subjected to six years

construct southwest because another prisoner had his some in his jossession , especially when Respondent arges the Court to rule that only one source item is necessary to revalidate a prisoner as active.

The next item addressed by Respondent concerns yet another

when we then from one prisoner to another where the writer structured it a certain situation involving prisons fulficer. This information is based completely un heartay, and in the previous habean proceeding, the Court expressed grave concerns on whether this source them was reliable evidence of gang activity (see Order to Show Cause, case No Heart 50-5242)

Them Number Five relates to a confidential memo dented Nov. 18, 2003, which alludes to some undentified gaing activity. Of importance to this particular source item the Court should note that while this document was available for the Jan 2004 revoludation prison efficially at that time found that it did not qualify as a reliable source. For the same reasons, it should not have been reliable on in

the current revalidation

Respondent next details a confedential memo dated Sept 23,

2003 which makes serious accusations it criminal conduct
including drug trafficing, susling drug money to gang
members and targeting at least one prisoner for issault. No
direct oxidence was graduced to support these allegations
other than the self-serving statement of an information whose
reliability was established when he implicated himself

...(_لو..

there very same activities. But more importantly Rejudent should be asked to explain why it this intornafood is true Petitioner was never formally charged with seriosis misconduct in accordance with the mandatory provisions contained in CCR, sec. 3312 (a) (3) and issued la CDC 115 Rules Violation Report, Petitioner Jubants that the reason is because the information is talse, and as such should not have been relied on in the revoludation process I Item number seven alleges l'etitioner was instruction where prisosers as how to communicate in code with gang members found claims letituder himself was corresponding with a lgang member using some such code : si exidence was lever produced to support there acresations other than the Iself-serving statement of an intermed + and last timer has prever received a CDC-115 Rules Violations Regart for any Truch conduct. Petitioner submits that clearly this source Hem does not quality as relable andosce of gang activity and should not have been relied in in the revalidation process As the head source term addressed by Respondent, a destidatial mono dated Sept. 21, 2000, is cited, which states that Petitioner's Niece came into contact with a reguted garg member at the Department of Motor Vahicles con-Keyed greetings from this individual whise family Ketitionser That Known all his like and expressed a willing west fo forward messages to this jerson it fet trover so

derived. No evidence has ever been producted that leti-Houser is fact corresponded with this individual either Through his veice or is any other way, shape or form In the previous habeas proceedings the Court expressed grave conscers whout the reliability of this source item a) evidence of gang activity (see Ode- to Thow Couse) (Case No UCPB05-52-12) As such it should not have been Irelied on in the current revolidations. In closing, Petitioner denies Respondents allegation shot louly one source ten was required to revelid le let house as as active associate of a feison gang, submits that the current revalidation was illegally obtained because it frehed as eleves source tems that did not meet the requirements of the Castello creteria and asserts that the francising eight jource items addressed by Respondent likewise do not quality as reliable because they do not conform to the criteria cuitained in the Code of Regula 10005. Also a review of the process at issue here clearly phows that letitioner was enjoured classified as as factive associate et a prison your based on source items That were previously relied on to label him a member" Twhen the criteria for each category is whiley distinct, and that it was not until this Court is the fee vivus habeas proceedings expressed its concern about the privalidation process that prison - thicials acknowledged the evidence did such support its previous decisions Based as all of the above letitioner rubnits that

there can be no constituce that prison officials will ever comply with the mundatory provisions contained in the Castillo Settlement Agreement and Code of Regulations in regards to the validation and revalidation processes unless and antil this Court issues as Order compelling them to do so.

Accordingly, Petitioner respectfully requests that the Petition be granted the current revalidation held to have been illegally obtained and grant any and all other relief as may be just and proper under the law.

Dated: Mar. 25; 2007

Respectfully Submitted

Arcadio Acome # C-43165 Petitioner, In Pro Per

EXHIBIT 19

| Case | 3:07-cv-05423-VRW | Document 16-18 | Filed 06/23/2008 | Page 79 of 84 | |
|------|---|--|--|---|--|
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| 1, | | | THEORY AND THE PROPERTY OF THE | APR 0 5 2007 | |
| 2 | | | SU-di (| HUB COUNT OF CALIFORNIA | |
| 3 | | | Legislamine | CLC Control Co. Section 16.4.4.1 Linguistic Co. | |
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| 8 | SUPERIOR COURT OF THE STATE OF CALIFORNIA | | | | |
| 9 | FOR THE COUNTY OF DEL NORTE | | | | |
| 10 | | | | | |
| 11 | IN THE MATTER OF: | |) CASE NO.: HCPI | 306-5235 | |
| 12 | | |) | | |
| 13 | ARCADIO ACUNA, | | | SING THE PETITION | |
| 14 | C-43165, | |) FOR HABEAS CORPUS | | |
| 15 | | Petitioner, |) | | |
| 16 | On Habeas Corpus. | | | | |
| 17 | | | | | |
| 18 | Petitioner is an inmate at Pelican Bay State Prison. He was previously | | | | |
| 19 | validated as member of the Mexican Mafia prison gang. However in 2000 he was | | | | |
| 20 | determined to be "inactive" and released from the Security Housing Unit (SHU). In | | | | |
| 21 | a prior habeas proceeding (case number 05-5242), this Court issued an Order to | | | | |
| 22 | Show Cause related t | to the department d | letermination that l | ne was no longer | |
| - 1 | T. | and the second s | | | |

validated as member of the Mexican Mafia prison gang. However in 2000 he was determined to be "inactive" and released from the Security Housing Unit (SHU). In a prior habeas proceeding (case number 05-5242), this Court issued an Order to Show Cause related to the department determination that he was no longer "inactive." The Court appointed counsel for Petitioner and reviewed *in camera* confidential documents used in the process of determining his active status. The Court had concerns as to the validity of some sources and the apparent failure to accord Petitioner his due process rights. The habeas petition was dismissed after the department agreed to undertake anew proceedings against Petitioner to establish his "active" status and return him to S.H.U. While the court finds no use of such term in the regulations, in common vernacular, the proceedings to reclassify

an inmate as active are referred to as "revalidation." This petition follows exhaustion of administrative appeals related to the new revalidation.

The department determined that 19 documents, from 16 separate sources, met the validation requirements and that eight did not. The Petitioner — and the Court — question the usefulness of some of the documents that go back more than 17 years. However, the Department found "reliable" eight separate source documents generated since Petitioner was found to be "inactive" in 2000.

Petitioner was provided with detailed 1030 confidential disclosure forms. For the most part his complaints about the recent source documents are that they are from sources that are "self serving." That is not a ground to find the documents insufficient. Because such confidential sources are often self serving and provide a high risk for false information is undoubtedly why multiple different sources are required for an original validation. See generally Madrid v. Gomez 889 Fed. Supp. 1146, 1274.

Since the concept of "inactive" status was first recognized as a basis for release from S.H.U., only one new source is required to revalidate as active an inmate previously validated as a gang member or associate. See 15 Cal. Code Regs. § \$3341.5 (c)(6) and 3378(f). See also The California State Prisoners Handbook § 6.21 A. Petitioner argues that the settlement in Castillo v. Alameida (Case No. C-94-2847MJJ, U.S. Dist.Ct. for N. Cal.) and consequent changes in the regulations since then require that reclassifying him as "active" requires three new independent sources, rather than one. While the applicable regulations read out of context might arguably lend some weight to that position, nothing in the Castillo order nor anything this Court has read from any other source indicates that such a change was intended. For instance, in the 2006 supplement to the Prisoners Handbook, cited above (published by the Prison Law Office, a prisoner advocacy group), the discussion of changes ordered by the Castillo settlement makes no mention of any such change in the number of sources needed to return a formerly inactive inmate

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to S.H.U. Therefore, the Court finds that only one, not three, source item is required to return Petitioner to active gang status and mandatory S.H.U. commitment.

In reviewing *in camera* the new confidential documents, the Court still has reservations about the sufficiency of some of the eight new sources used in the new proceedings. However, the Court determines at least one of documents, the September 23, 2003, confidential memorandum, meets the reliability requirements section 3378 of Title 15 of the California Code of Regulations. If it were to be determined that three new validation sources were required, as Petitioner argues, further review of the other source documents would be necessary.

The Petition for Writ of Habeas Corpus is therefore denied.

DATED: <u>APR 0 6 2007</u>



WILLIAM H. FOLLETT
Judge of the Superior Court

PROOF OF SERVICE BY MAIL (1013a, 2015.5 C.C.P)

I am a citizen of the United States and a resident of the County of Del Norte. I am over the age of eighteen (18) years and am not a party to the entitled action; my business address is 450 H St, Crescent City California 95531.

On Friday, April 06, 2007, I served a copy of the <u>ORDER DISMSSING PETITION</u> <u>FOR WRIT OF HABEAS CORPUS, FILED 04/06/07</u> by depositing a true copy in the United States mail in Crescent City, California, in a sealed envelope with postage prepaid, addressed as follows:

Arcadia Acuna, C-43165 C/O Pelican Bay State Prison P.O. Box 7500 Crescent City, CA 95531

William J. Barlow Attn: Litigation Department P.O. Box 7500 Crescent City, CA 95531

Jessica Blonien
Deputy Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that it was executed at Crescent City, California this date.

DATED: April 6, 2007

J. McCubbin

Jamie McCubbin Judicial Assistant

EXHIBIT 20

| Gase 5:07-05-05425-VIVW Document 10-10 Thed 00/25/2000 Trac | ge 04 01 04 |
|---|----------------------------|
| ID-DSPRC8 DEL NORTE SUPERIOR COURT DATE 6/09/08 CASE#: DN SU HC-PB-06-0005235-000 | |
| TYPE: PELICAN BAY HABEAS CORPUS STATUS: CLOSED ACUNA, ARCADIO VS. HOREL, ROBERT A. WARDENJUDGE | 4/06/07 |
| CURRENT: FOLLETT, WILLIAM H | 3 |
| PT 001: ACUNA, ARCADIO C-43165 NONE VS. | |
| RS 002: HOREL, ROBERT A (WARDEN) ATTORNEY GENERAL, | |
| ISSUES | |
| MAJOR EVENTS 12/13/06 HABEAS CORPUS PET. 4/06/07 ORDER DENYING WRIT 4/06/07 DATE CLOSED DISPOSITION: ORDER DENYING WRIT | CRT6051000 CRT7937000 |
| FILING PROCEEDINGS DATE EVENT COMMENT EVENT DATE 12/13/06 HABEAS CORPUS PETITION FILED 12/13/06 FILE TRACKING | PERSON/PARTY CRT6051000 |
| 12/13/06 FILE TRACKING FILE LOCATED AT: FOLLETT | CRT6051000 |
| 1/17/07 REQ. INFORM. RES. | CRT7937000 |
| REQUEST FOR INFORMAL RESPONSE 1/17/07 TRACKING TO JAMIE FOR: 2/16/07 6 DISPOSITION: VACATE TRACKING PURPOSE ONLY CLERK TO REVIEW | :00 CRT7937000 |
| 2/21/07 FILE TRACKING FILE LOCATED AT: on Jamie's Desk | CRT7937000 |
| 2/28/07 TRACKING TO JAMIE FOR: 3/19/07 6 DISPOSITION: VACATE | :00 CRT7937000 |
| TRACKING PURPOSE ONLY CLERK TO REVIEW 3/20/07 FILED | CRT9875000 |
| Informal response filed. 3/21/07 TRACKING TO JAMIE/IR BY IN FOR: 4/04/07 6 DISPOSITION: VACATE | :00 CRT7937000 |
| TRACKING PURPOSE ONLY CLERK TO REVIEW 3/21/07 FILE TRACKING | CRT7937000 |
| FILE LOCATED AT: on Wall 3/27/07 FILED | CRT9875000 |
| Reply to informal response. 3/28/07 FILE TRACKING | CRT9875000 |
| FILE LOCATED AT: to judge Follett for review 4/06/07 MINUTE ORDER (Grander) | CRT7937000 |
| MINUTE ORDER (See Order) 4/06/07 ORDER DENYING WRIT | CRT7937000 |
| ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS | CRT7937000 |

4/06/07 FILE TRACKING FILE LOCATED AT: on Wall CRT7937000